

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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 In re: : Chapter 11
 :
 EMERGE ENERGY SERVICES LP, *et al.*,¹ : Case No. 19-11563 (KBO)
 :
 Debtors. : Jointly Administered
 :
 : **Hearing Date: Aug 14, 2019 at 11:00 a.m. (ET)**
 : **Obj. Deadline: Aug. 7, 2019 at 4:00 p.m. (ET)**
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**DEBTORS’ APPLICATION FOR THE ENTRY OF AN ORDER
PURSUANT TO SECTIONS 327(A) AND 328(A) OF THE BANKRUPTCY CODE
(A) AUTHORIZING THE EMPLOYMENT AND RETENTION OF HOULIHAN
LOKEY CAPITAL, INC. AS FINANCIAL ADVISOR AND INVESTMENT BANKER
TO THE DEBTORS, *NUNC PRO TUNC* TO THE PETITION DATE, (B) WAIVING
CERTAIN TIME-KEEPING REQUIREMENTS PURSUANT TO LOCAL RULE
2016-2(H) AND (C) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) hereby submit this application (the “**Application**”), for the entry of an order, substantially in the form attached hereto as Exhibit A (the “**Proposed Order**”), (a) authorizing the Debtors to employ and retain Houlihan Lokey Capital, Inc. (“**Houlihan Lokey**”) as their financial advisor and investment banker, *nunc pro tunc* to the Petition Date (as defined herein), pursuant to that certain engagement letter dated December 31, 2018 (except as may be modified by the Proposed Order), a copy of which is attached hereto as Exhibit C (the “**Houlihan Engagement Letter**”), by and between Houlihan Lokey and Emerge Energy Services LP; (b) waiving certain time-keeping requirements pursuant to Rule 2016-2(h) of the Local Rules of Bankruptcy Practice and

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services, LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.



Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”); and (c) granting related relief. In support of this Application, the Debtors submit the Declaration of Adam Dunayer, Managing Director at Houlihan Lokey, a copy of which is attached hereto as Exhibit B (the “**Dunayer Declaration**”) and respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Application under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Application in this district is proper under 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 327(a) and 328(a) of the Bankruptcy Code.

BACKGROUND

2. On July 15, 2019 (the “**Petition Date**”), the Debtors filed voluntary petitions in this Court commencing cases (the “**Chapter 11 Cases**”) for relief under chapter 11 of the Bankruptcy Code. The factual background regarding the Debtors, including their business operations, their capital and debt structures and the events leading to the filing of the Chapter 11 Cases, is set forth in detail in the *Declaration of Bryan Gaston, Restructuring Officer of the Debtors, in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 14] (the “**First Day Declaration**”)² filed with the Court.

3. The Debtors continue to manage and operate their businesses as debtors in

² Capitalized terms used, but not otherwise defined herein, have the meanings set forth in the Houlihan Engagement Letter or the First Day Declaration, as applicable. The summary of the terms of the Houlihan Engagement Letter contained herein is provided for the benefit of the Court and parties in interest and, to the extent the summary set forth herein and the terms of the Houlihan Engagement Letter are inconsistent, the terms of the Houlihan Engagement Letter shall control.

possession pursuant to Bankruptcy Code sections 1107 and 1108. No trustee or examiner has been requested in the Chapter 11 Cases and no committees have yet been appointed.

4. These Chapter 11 Cases are jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b).

RELIEF REQUESTED

5. By this Application, the Debtors respectfully request the entry of an order, substantially in the form of the Proposed Order attached hereto, (a) authorizing the Debtors to employ and retain Houlihan Lokey as their financial advisor and investment banker, *nunc pro tunc* to the Petition Date pursuant to the Houlihan Engagement Letter (except as may be modified by the Proposed Order), (b) waiving certain time-keeping requirements pursuant to Local Rule 2016-2(h), and (c) granting related relief.

HOULIHAN LOKEY'S ENGAGEMENT

I. Houlihan Lokey's Qualifications

6. In light of the size and complexity of these Chapter 11 Cases, the Debtors require a qualified and experienced financial advisor and investment banker with the resources, capabilities, and experience of Houlihan Lokey to assist them in pursuing the transaction(s) that are crucial to the Debtors' success. A financial advisor and investment banker such as Houlihan Lokey fulfills a critical service that complements the services provided by the Debtors' other professionals.

7. Houlihan Lokey is an internationally recognized investment banking and financial advisory firm, with twenty-two offices worldwide and more than 950 professionals. Houlihan's Financial Restructuring Group, which has more than 225 professionals, is one of the leading advisors and investment bankers to unsecured and secured creditors, debtors, acquirers, and other

parties-in-interest involved with financially troubled companies both in and outside of bankruptcy. Houlihan Lokey has been, and is, involved in some of the largest restructuring cases in the United States, including representing official committees in *Lehman Brothers Holdings Inc.*, *Arcapita Bank B.S.C(c)*., *Enron Corp.*, *WorldCom, Inc.*, *Delta Air Lines, Inc.*, *General Growth Properties*, *Capmark*, and representing debtors in *Murphy Energy Corporation* (a global oil and gas production company), *Mark IV Industries*, *Buffets Holdings, Inc.*, *Bally Total Fitness Holding Corp.*, *XO Communications, Inc.*, *Six Flags, Inc.*, *Granite Broadcasting Corp.*, and *MS Resorts*.

8. The Debtors selected Houlihan Lokey as their investment banker and financial advisor based upon, among other things, the Debtors' need to retain an investment banking and financial advisory firm to provide advice with respect to the Debtors' restructuring activities and Houlihan Lokey's extensive experience and excellent reputation in providing investment banking and financial advisory services in complex chapter 11 cases. In addition, Houlihan Lokey has already expended significant time, effort, and resources in assisting the Debtors with respect to the restructuring activities. Indeed, Houlihan Lokey's Financial Restructuring Group has been advising the Debtors since December 2018, and during this time, Houlihan Lokey has developed significant relevant experience and expertise regarding the Debtors and their current situation. Houlihan Lokey is thus well qualified and uniquely suited to deal effectively and efficiently with any financial issues that may arise during the pendency of these Chapter 11 Cases.

II. Services to Be Performed

9. Subject to approval of the Court and consistent with the Houlihan Engagement Letter, Houlihan Lokey will advise and assist the Debtors in connection with the following

tasks:³

- a. assisting the Debtors in the development and distribution of selected information, documents and other materials, including, if appropriate, advising the Debtors in the preparation of a financing offering memorandum;
- b. assisting the Debtors in evaluating indications of interest and proposals regarding any transaction from current and/or potential lenders, equity investors, and/or strategic partners;
- c. assisting the Debtors with the negotiation of any transaction(s), including participating in negotiations with creditors and other parties involved in any transaction(s);
- d. providing expert advice and testimony regarding financial matters related to any transaction(s), if necessary;
- e. attending meetings of the Debtors' Board of Directors, creditor groups, official constituencies and other interested parties;
- f. assisting the Debtors in acquiring and negotiating debtor-in-possession financing; and
- g. providing such other financial advisory and investment banking services as may be required by the Debtors

10. The Debtors intend that Houlihan Lokey's services will complement, and not duplicate, the services to be rendered by other professionals retained by the Debtors in these Chapter 11 Cases. The Houlihan Engagement Letter reflects Houlihan Lokey's understanding that the Debtors may retain other professionals during the term of the engagement, and the Debtors believe that, at their request, Houlihan Lokey will work cooperatively with such professionals to integrate any respective work conducted by the professionals on behalf of the Debtors.

III. Terms of Retention

11. As more fully described in the Houlihan Engagement Letter, the Debtors have

³ The summary provided herein is for illustrative purposes only and is subject to the Houlihan Engagement Letter in all respects. In the event of any inconsistency between the summary of services as set forth herein and the Houlihan Engagement Letter, the Houlihan Engagement Letter will control.

agreed to, among other things, (i) compensate Houlihan Lokey for services rendered and reimburse Houlihan Lokey for expenses incurred; and (ii) fulfill certain indemnification and reimbursement obligations to Houlihan Lokey for liabilities, if any, arising out of or in connection with Houlihan Lokey's retention by the Debtors.

12. Houlihan Lokey intends to apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with these Chapter 11 Cases, in compliance with applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), the Local Rules, and any other applicable procedures and orders of the Court (to the extent compliance is not waived) and consistent with the proposed compensation set forth in the Houlihan Engagement Letter, except as modified by the Proposed Order (the "**Fee Structure**"). Houlihan Lokey's decision to advise and assist the Debtors is conditioned upon its ability to be retained in accordance with its customary terms and conditions of employment and to be compensated for its services and reimbursed for the expenses it incurs in accordance with its customary billing practices.

13. Investment bankers such as Houlihan Lokey do not typically charge for their services on an hourly basis. Instead, they customarily charge a monthly advisory fee plus an additional fee that is contingent upon the occurrence of a specified type of transaction. The Houlihan Engagement Letter follows this custom in the investment banking industry and sets forth monthly and transaction-based fees that are to be payable to Houlihan Lokey.

14. The compensation arrangements contained in the Houlihan Engagement Letter are highly beneficial to the Debtors' estates because they provide certainty and proper inducement for Houlihan Lokey to act expeditiously and prudently with respect to the matters for which it will be employed. Accordingly, because the Debtors are seeking to retain Houlihan Lokey under

section 328(a) of the Bankruptcy Code, the Debtors believe that Houlihan Lokey's compensation should not be subject to any additional standard of review under section 330 of the Bankruptcy Code and does not constitute a "bonus" or fee enhancement under applicable law.

A. Pre-Petition Compensation

15. Pre-petition, and in accordance with the Houlihan Engagement Letter, the Company paid Houlihan Lokey a nonrefundable fee of \$125,000 upon execution of the Houlihan Engagement Letter, as well as an Initial Fee of \$125,000 in December 2018 and Monthly Fees of \$125,000 in respect of services provided in each of January through June 2019. The final Monthly Fee paid in advance of the Petition Date was paid in June 2019. Further, Houlihan Lokey has served as a financial advisor to and placement agent for the Company on capital markets engagements completed prior to the current engagement; see the Dunayer Declaration.

16. Houlihan Lokey has no claims against any Debtor on account of any fees or expenses that accrued prior to the Petition Date, for the current or past engagements, and, therefore, is not a creditor of the Debtors.

B. The Fee Structure

17. The Fee Structure provides for the following compensation during the course of these Chapter 11 Cases:⁴

- (a) **Monthly Fee.** The Company shall pay Houlihan Lokey a cash fee of \$125,000 (the "**Monthly Fee**"), commencing in January 2019. Beginning with the sixth Monthly Fee, 50% of the Monthly Fees paid or previously paid on a timely basis to Houlihan Lokey shall be credited against any Restructuring Transaction Fee (as defined below) to which Houlihan Lokey becomes entitled (it being understood and agreed that no Monthly Fee shall be credited more than once), except that, in no event, shall such

⁴ The summary provided herein is for illustrative purposes only and is subject to the Houlihan Engagement Letter in all respects. In the event of any inconsistency between the Fee Structure as set forth herein and the Houlihan Engagement Letter, the Houlihan Engagement Letter will control.

Restructuring Transaction Fee be reduced below zero. For the avoidance of doubt, the first through the fifth Monthly Fees shall not be credited against any Transaction Fee.

- (b) **Restructuring Transaction Fee.** Upon the earlier to occur of: (i) in the case of an out-of-court Restructuring Transaction, the closing of such Restructuring Transaction; and (ii) in the case of an in-court Restructuring Transaction,⁵ the date of confirmation of a plan of reorganization or liquidation under chapter 11 or chapter 7 of the Bankruptcy Code pursuant to an order of the Court, Houlihan Lokey shall earn, and the Company shall promptly pay to Houlihan Lokey, a cash fee (the “**Restructuring Transaction Fee**”) of \$2,500,000.⁶
- (c) **Amendment Transaction Fee.** Upon the first closing of an Amendment Transaction⁷ that does not otherwise constitute a Restructuring Transaction, Houlihan Lokey shall earn, and the Company shall promptly

⁵ Pursuant to the Houlihan Engagement Letter, “Restructuring Transaction” means any transaction or series of transactions that constitute a recapitalization or restructuring of the equity and/or debt securities and/or other indebtedness, obligations or liabilities (including, without limitation, preferred stock, partnership interests, lease obligations, trade credit facilities, collective bargaining agreements and other contract or tort obligations) of any entity comprising the Company, including accrued and/or accreted interest thereon, which are outstanding as of the Effective Date, including, without limitation, interest bearing trade debt and the Company’s existing Second Lien Note Purchase Agreement, dated as of January 5, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the Amendment Transaction, the “Note Purchase Agreement”), among the Company, Superior Silica Sands LLC and certain of their subsidiaries as issuers, the noteholders from time to time party thereto and HPS Investment Partners, LLC as notes agent and collateral agent, which recapitalization or restructuring is effected pursuant to an exchange transaction, tender offer, a plan of reorganization or liquidation under the Bankruptcy Code, a solicitation of consents, waivers, acceptances or authorizations, any change of control transaction, any refinancing, sale, acquisition, merger, repurchase, exchange, conversion to equity, cancellation, forgiveness, retirement and/or a material modification or amendment to the terms, conditions, or covenants (including, without limitation, the principal balance, accrued or accreted interest, payment term, other debt service requirement and/or financial or operating covenant for a period lasting 9 months or longer) of any agreements or instruments governing any of the equity and/or debt securities and/or other indebtedness of any entity comprising the Company (other than an Amendment Transaction) or any combination of the foregoing transactions.

⁶ Notwithstanding the Houlihan Engagement Letter providing for a Restructuring Transaction Fee in the amount of \$2,500,000, Houlihan Lokey has agreed to a Restructuring Transaction Fee of \$2,400,000.

⁷ Pursuant to the Houlihan Engagement Letter, “Amendment Transaction” means any transaction or series of related transactions that constitute amending, modifying, supplementing, deferring, waiving, or otherwise seeking relief from the terms, conditions, or covenants under all or a portion of the Company’s existing Note Purchase Agreement for a period that (i) lasts at least six months, (ii) ends no earlier than June 30, 2019 and no later than December 31, 2019 and (iii) does not otherwise constitute a Restructuring Transaction.

pay to Houlihan Lokey, a cash fee (the “**Amendment Transaction Fee**”) of \$1,000,000. One-hundred percent (100%) of any Amendment Transaction Fee previously paid on a timely basis to Houlihan Lokey shall be credited against any Restructuring Transaction Fee to which Houlihan Lokey becomes entitled under the Houlihan Engagement Letter (it being understood and agreed that no Amendment Transaction Fee shall be credited more than once and no Restructuring Transaction Fee shall be reduced by crediting from more than one Amendment Transaction Fee). Houlihan Lokey shall be paid only one Amendment Transaction Fee during the term of this Agreement, unless otherwise agreed to in writing by the Company.

- (d) **Financing Transaction Fee.** Upon the closing of each Financing Transaction,⁸ Houlihan Lokey shall earn, and the Company shall thereupon pay immediately and directly from the gross proceeds of such Financing Transaction, as a cost of such Financing Transaction, a cash fee (the “**Financing Transaction Fee**”) equal to the sum of: (i) 0.75% of the aggregate principal amount of all amounts raised, placed, or committed in any Financing Transaction through a new revolving credit facility, (other than with respect to debtor-in-possession financing); (ii) 2.0% of the aggregate principal amount of any other new non-common equity Securities raised, placed or committed in any Financing Transaction (other than a revolving credit facility, but including, for the avoidance of doubt, any additional amounts committed under the Note Purchase Agreement, amounts raised with respect to a debtor-in-possession financing, and Securities senior to but convertible into common equity); and (iii) 4.0% of the gross proceeds of all common equity Securities placed or committed; provided, in the case of (iii), that Houlihan Lokey is a co-agent, seller, or otherwise provides investment banking and advisory services directly related to the common equity Financing Transaction. If the proceeds of

⁸ Pursuant to the Houlihan Engagement Letter, “Financing Transaction” means (a) any transaction or series of related transactions that constitutes any refinancing of all or any portion of the existing obligations of any entity comprising the Company and/or (b) the placement, raising or issuance of any form of equity, equity-linked or debt securities (including, without limitation, any senior, subordinated, secured or unsecured indebtedness, or any convertible securities, preferred stock with warrants, or debt with warrants, preferred stock) or any loan or other financing, including any “debtor in possession financing” or “exit financing” in connection with a case under the Bankruptcy Code by any entity comprising the Company (any or all of which being “Securities”), from any source including, without limitation, any of the existing owners, shareholders, employees, or creditors out-of-court, through the confirmation of a plan of reorganization or otherwise under the Bankruptcy Code, or whether the requisite consents to such transaction(s) are obtained in-court or out-of-court). Notwithstanding the foregoing, Houlihan Lokey shall not be entitled to a Financing Transaction Fee on amounts raised, placed, or committed by any merger transaction counterparty.

any such Financing Transaction are to be funded in more than one stage, Houlihan Lokey shall be entitled to its applicable compensation hereunder upon the closing date of each stage. The Financing Transaction Fee(s) shall be payable in respect of any sale of securities whether such sale has been arranged by Houlihan Lokey, by another agent (or other issuer of the Securities in such Financing Transaction), or directly by the Company. Any non-cash consideration provided to or received in connection with the Financing Transaction (including but not limited to intellectual or intangible property) shall be valued for purposes of calculating the Financing Transaction Fee as equaling the number of Securities issued in exchange for such consideration multiplied by (in the case of debt securities) the face value of each such Security or (in the case of equity securities) the price per Security paid in the then current round of financing. The Financing Transaction Fee shall be in addition to any other fees that the Company may be required to pay to any investor or other purchaser of Securities to secure its financing commitment.⁹

18. In addition to any fees that may be payable to Houlihan Lokey and, regardless of whether any transaction occurs, the Debtors shall promptly reimburse Houlihan Lokey for all actual and reasonable expenses incurred by Houlihan Lokey (including travel-related expenses, research, database and similar information charges, postage, telecommunication, and duplication expenses) and the reasonable fees and expenses of counsel, if any, retained by Houlihan Lokey, without the need for such legal counsel to be retained as professionals in these Chapter 11 Cases.

19. Houlihan Lokey will maintain records in support of any expenses incurred in connection with the rendering of its services in these Chapter 11 Cases. As Houlihan Lokey's compensation will be calculated and paid based on certain transaction fees (in addition to Monthly Fees), Houlihan Lokey respectfully requests that it not be required to file time records in accordance with Bankruptcy Rule 2016(a), Local Rule 2016-2(d), and any other applicable

⁹ Houlihan Lokey will waive its entitlement to a Financing Transaction Fee with respect to the postpetition debtor-in-possession financing facility approved pursuant to the *Interim Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Certain Protections to Prepetition Secured Parties, (III) Scheduling a Final Hearing, and (IV) Granting Related Relief* [Docket No. 64] and as the same may be approved pursuant to a final order (the "**HPS Financing**").

orders or procedures of the Court. Notwithstanding that Houlihan Lokey does not charge for its services on an hourly basis, Houlihan Lokey will nonetheless maintain records (in summary format) of its services rendered for the Debtors in one-half hour increments, including reasonably detailed descriptions of those services and the individuals who provided the services, and will present such records to the Court in its interim and final fee applications.

20. The Debtors believe that the Fee Structure is consistent with and typical of compensation arrangements entered into by Houlihan Lokey and other comparable firms in connection with the rendering of similar services under similar circumstances (it being understood that neither the Debtors nor Houlihan Lokey believe Houlihan Lokey's waiver of the Financing Transaction Fee to the extent set forth in the Proposed Order is consistent with or typical of other similar compensation arrangements). Houlihan Lokey's strategic and financial expertise as well as its capital markets knowledge, financing skills, restructuring capabilities, and mergers and acquisitions expertise, some or all of which may be required by the Debtors during the term of Houlihan Lokey's engagement, were all important factors in determining the Fee Structure. The Debtors believe that the ultimate benefit of Houlihan Lokey's services cannot be measured by reference to the number of hours to be expended by Houlihan Lokey's professionals in the performance of such services. Indeed, the Debtors and Houlihan Lokey have agreed upon the Fee Structure in anticipation that a substantial commitment of professional time and effort will be required of Houlihan Lokey and its professionals in connection with these Chapter 11 Cases and in light of the fact that such commitment may foreclose other opportunities for Houlihan Lokey, and that the actual time and commitment required of Houlihan Lokey and its professionals to perform its services under the Houlihan Engagement Letter may vary substantially from week to week and month to month, creating "peak load" issues for Houlihan

Lokey.

21. In light of the foregoing and given the numerous issues that Houlihan Lokey may be required to address in the performance of its services hereunder, Houlihan Lokey's commitment to the variable level of time and effort necessary to address all such issues as they arise and the market prices for Houlihan Lokey's services for engagements of this nature both in an out-of-court and chapter 11 context, the Debtors believe that the Fee Structure is fair, reasonable, and market-based under the standard set forth in section 328(a) of the Bankruptcy Code.

IV. Indemnification

22. As part of the overall compensation payable to Houlihan Lokey under the terms of the Houlihan Engagement Letter, the Debtors have agreed to indemnify Houlihan Lokey and the other Indemnified Parties in accordance with the provisions set forth in the Houlihan Engagement Letter. The Houlihan Engagement Letter provides, among other things, that the Debtors will indemnify Houlihan Lokey and other Indemnified Parties except to the extent that any loss, claim, damage, or liability is finally judicially determined by a court of competent jurisdiction to have resulted primarily from the willful misconduct or gross negligence of such Indemnified Party.

23. The indemnification, contribution, and reimbursement provisions reflected in the Houlihan Engagement Letter are customary and reasonable terms of consideration for investment bankers such as Houlihan Lokey for proceedings both out of court and in chapter 11. The terms of the Houlihan Engagement Letter were fully negotiated between the Debtors and Houlihan Lokey at arm's length, and the Debtors respectfully submit that the Houlihan Engagement Letter is reasonable and is in the best interests of the Debtors, their estates, and stakeholders.

Accordingly, the Debtors request that the Court approve the Houlihan Engagement Letter, subject to customary modifications set forth in the Debtors' Proposed Order.

V. Houlihan Lokey's Disinterestedness

24. To the best of the Debtors' knowledge, and based upon the Dunayer Declaration, (a) Houlihan Lokey is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code and as required by section 327(a) of the Bankruptcy Code, and does not hold or represent an interest adverse to the Debtors' estates; and (b) Houlihan Lokey's connections to the Debtors, their estates, their creditors, or their related parties are disclosed on Schedule 2 to the Dunayer Declaration.

25. Also, to the best of the Debtors' knowledge, information and belief, and based entirely and in reliance upon the Dunayer Declaration: (i) none of Houlihan Lokey's past or current engagements would or does appear to create an interest adverse to the interests of the Debtors, creditors, or equity security holders in these Chapter 11 Cases and, as such the Debtors believe that Houlihan Lokey is disinterested and neither holds an interest nor represents an interest adverse to the Debtors and their estates; and (ii) to the extent Houlihan Lokey discovers any facts bearing on the matters described herein during the period of Houlihan Lokey's retention, they will supplement the information contained in the Dunayer Declaration.

26. As described in more detail in the Dunayer Declaration, Houlihan Lokey, among other things, searched its client databases to determine whether it represents, or has represented, certain of the Debtors' creditors or other Parties-In-Interest in these proceedings, and/or matters wholly unrelated to those proceedings. Due to the size of Houlihan Lokey and the number of creditors and other parties in interest involved in these Chapter 11 Cases, however, Houlihan Lokey may have represented certain of the Debtors' creditors or other Parties-In-Interest in

matters wholly unrelated to these Chapter 11 Cases. Except as may be described in the Dunayer Declaration, Houlihan Lokey, to its knowledge, neither holds nor represents any party with an interest adverse to the Debtors or their estates.

27. Also, in accordance with section 504 of the Bankruptcy Code, Houlihan Lokey has informed the Debtors that there is no agreement or understanding between Houlihan Lokey and any other entity, other than employees of Houlihan Lokey, for the sharing of compensation received or to be received for services rendered in connection with these Chapter 11 Cases.

BASIS FOR RELIEF REQUESTED

28. The Debtors seek approval of Houlihan Lokey's retention under the terms of the Houlihan Engagement Letter, including the Fee Structure contained therein, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code. Section 327(a) of the Bankruptcy Code authorizes a debtor in possession to employ professionals that "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a). As discussed above, Houlihan Lokey satisfies the disinterestedness standard of section 327(a) of the Bankruptcy Code.

29. In addition, the Debtors seek approval of Houlihan Lokey's retention under the terms of the Houlihan Engagement Letter, including the Fee Structure set forth therein, pursuant to section 328(a) of the Bankruptcy Code. Section 328(a) provides, in relevant part, that the Debtors "with the court's approval, may employ or authorize the employment of a professional person under section 327 . . . on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis." 11 U.S.C. § 328(a).

30. Section 328 of the Bankruptcy Code permits the compensation of professionals, including investment bankers and financial advisors, on more flexible terms that reflect the

nature of their services and market conditions. As the United States Court of Appeals for the Fifth Circuit recognized in *Donaldson Lufkin & Jenrette Sec. Corp. v. Nat'l Gypsum (In re Nat'l Gypsum Co.)*, 123 F.3d 861 (5th Cir. 1997):

Prior to 1978 the most able professionals were often unwilling to work for bankruptcy estates where their compensation would be subject to the uncertainties of what a judge thought the work was worth after it had been done. That uncertainty continues under the present § 330 of the Bankruptcy Code, which provides that the court award to professional consultants “reasonable compensation” based on relevant factors of time and comparable costs, etc. Under present § 328 the professional may avoid that uncertainty by obtaining court approval of compensation agreed to with the trustee (or debtor or committee).

Id. at 862 (internal citations and emphasis omitted).

31. As set forth above, notwithstanding approval of Houlihan Lokey’s retention under section 328(a) of the Bankruptcy Code, Houlihan Lokey intends to apply for compensation for professional services rendered and reimbursement of expenses incurred in connection with these Chapter 11 Cases, in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any other applicable procedures and orders of the Court (to the extent compliance is not waived) and consistent with the Fee Structure set forth in the Houlihan Engagement Letter.

32. The Debtors believe that the Fee Structure appropriately reflects the nature and scope of services to be provided by Houlihan Lokey in these complex Chapter 11 Cases, Houlihan Lokey’s substantial experience with respect to investment banking services, and the fee structures typically utilized by Houlihan Lokey and other leading investment banks that do not bill their clients on an hourly basis.

33. In agreeing to seek Houlihan Lokey’s retention under section 328(a) of the Bankruptcy Code, the Debtors acknowledge the following: (a) they believe that Houlihan

Lokey's general restructuring experience and expertise, its knowledge of the capital markets, and its knowledge of the Debtors' operations will inure to the benefit of the Debtors in pursuing any restructuring, Sale Transaction, or Financing; (b) the value to the Debtors of Houlihan Lokey's services under the Houlihan Engagement Letter derives in substantial part from that expertise and experience; (c) accordingly, the structure and amount of the Transaction Fees are reasonable regardless of the number of hours to be expended by Houlihan Lokey's professionals in the performance of the services to be provided under the Houlihan Engagement Letter; and (d) the deferred fees should not be considered to be "bonuses" or fee enhancements under applicable law.

34. Indeed, similar fixed and contingency fee arrangements in other large chapter 11 cases have been routinely approved and implemented by courts in this circuit and elsewhere. *See, e.g., In re Promise Healthcare Group, LLC*, No. 18-12491 (CSS) (Bankr. D. Del. Dec. 11, 2018); *In re Heritage Home Group LLC*, No. 18-11736 (KG) (Bankr. D. Del. Aug. 24, 2018); *In re Tintri, Inc.*, No. 18-11625 (KJC) (Bankr. D. Del. Aug. 23, 2018); *In re The Rockport Company, LLC*, No. 18-11145 (LSS) (Bankr. D. Del. July 5, 2018); *In re Quicksilver Resources, Inc.*, No. 15-10585 (LSS) (Bankr. D. Del. Apr. 27, 2015); *In re Longview Power, LLC*, No. 13-12211 (BLS) (Bankr. D. Del. Sept. 24, 2013).¹⁰

35. Moreover, the Debtors and Houlihan Lokey believe that the indemnification provisions set forth in the Houlihan Engagement Letter are customary and reasonable for investment banking engagements, both out of court and in chapter 11 cases, and reflect the qualifications and limitations on indemnification provisions in this District. *See, e.g., In re*

¹⁰ Due to the voluminous nature of the orders cited herein, such orders have not been attached to this application. Copies of these orders are available upon request to the Debtors' proposed counsel.

Promise Healthcare Group, LLC, No. 18-12491 (CSS) (Bankr. D. Del. Dec. 11, 2018); *In re Heritage Home Group LLC*, No. 18-11736 (KG) (Bankr. D. Del. Aug. 24, 2018); *In re Tintri, Inc.*, No. 18-11625 (KJC) (Bankr. D. Del. Aug. 23, 2018); *In re The Rockport Company, LLC*, No. 18-11145 (LSS) (Bankr. D. Del. July 5, 2018); *In re Quicksilver Resources, Inc.*, No. 15-10585 (LSS) (Bankr. D. Del. Apr. 27, 2015); *In re Longview Power, LLC*, No. 13-12211 (BLS) (Bankr. D. Del. Sept. 24, 2013).

36. The Debtors also believe that employment of Houlihan Lokey *nunc pro tunc* to the Petition Date is warranted by the circumstances presented by these Chapter 11 Cases. The Third Circuit has identified “time pressure to begin service” and absence of prejudice as factors favoring *nunc pro tunc* retention. *See In re Arkansas Co.*, 798 F.2d 645, 650 (3d Cir. 1986). The complexity, compressed timing, and intense activity relating to the preparation and filing of these Chapter 11 Cases necessitated that the Debtors and Houlihan Lokey, as well as the Debtors’ other professionals, focus their immediate attention on time-sensitive matters, and promptly devote substantial resources to the affairs of the Debtors to comply with the pending submission and approval of this application.

37. In light of the foregoing, and given the numerous issues that Houlihan Lokey may be required to address in the performance of its services under the Houlihan Engagement Letter, Houlihan Lokey’s commitment to the variable level of time and effort necessary to address all such issues as they arise, and the market prices for Houlihan Lokey’s services for engagement of this nature, the Debtors believe that the terms and conditions of the Houlihan Engagement Letter are fair, reasonable, and market-based under the standards set forth in section 328(a) of the Bankruptcy Code.

NOTICE

38. Notice of this Motion will be given to: (a) the Office of the United States Trustee for the District of Delaware; (b) the United States Attorney for the District of Delaware; (c) the Internal Revenue Service; (d) the creditors listed on the Debtors' consolidated list of thirty (30) creditors holding the largest unsecured claims; (e) counsel to the DIP Agent and the Prepetition Agents; (f) counsel to Insight Equity; and (g) all parties entitled to notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, under the circumstances, no other or further notice is required.

39. A copy of this Motion is available on (i) the Court's website: www.deb.uscourts.gov, and (ii) the website maintained by the Debtors' proposed Claims and Noticing Agent, Kurtzman Carson Consultants LLC, at <https://www.kccllc.net/EmergeEnergy>.

NO PRIOR REQUEST

40. No previous request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtors respectfully request the entry of an order, substantially in the form of the Proposed Order attached hereto as Exhibit A, (a) authorizing the Debtors to employ and retain Houlihan Lokey as financial advisor and investment banker, *nunc pro tunc* to the Petition Date pursuant to the Houlihan Engagement Letter; (b) waiving certain time-keeping requirements, pursuant to Local Rule 2016-2(h); and (c) granting related relief.

Dated: July 24, 2019
Fort Worth, Texas

Emerge Energy Services LP
(on behalf of itself and the other Debtors)

By: /s/ Bryan M. Gaston
Name: Bryan M. Gaston
Title: Restructuring Officer

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X
In re: : Chapter 11
: :
EMERGE ENERGY SERVICES LP, *et al.*,¹ : Case No. 19-11563 (KBO)
: :
Debtors. : Jointly Administered
: :
: : **Obj. Deadline: August 7, 2019 at 4:00 p.m. (ET)**
: : **Hearing Date: August 14, 2019 at 11:00 a.m. (ET)**
: :
----- X

NOTICE OF APPLICATION AND HEARING

PLEASE TAKE NOTICE that, on July 24, 2019, the debtors and debtors in possession in the above-captioned cases (collectively, the “**Debtors**”) filed the *Debtors’ Application for the Entry of an Order Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code (A) Authorizing the Employment and Retention of Houlihan Lokey Capital, Inc. as Financial Advisor and Investment Banker to the Debtors, Nunc Pro Tunc to the Petition Date, (B) Waiving Certain Time-Keeping Requirements Pursuant to Local Rule 2016-2(h) and (C) Granting Related Relief* (the “**Application**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

PLEASE TAKE FURTHER NOTICE that, any responses or objections to the Application must be in writing and filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801 on or before **August 7, 2019 at 4:00 p.m. (Prevailing Eastern Time)**.

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

PLEASE TAKE FURTHER NOTICE that, if any objections to the Application are received, the Application and such objections shall be considered at a hearing before The Honorable Karen B. Owens, United States Bankruptcy Judge for the District of Delaware, at the Court, 824 North Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801 on **August 14, 2019 at 11:00 a.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS TO THE APPLICATION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE APPLICATION WITHOUT FURTHER NOTICE OR HEARING.

Dated: July 24, 2019
Wilmington, Delaware

/s/ Brett M. Haywood

RICHARDS, LAYTON & FINGER, P.A.

John H. Knight (No. 3848)
Paul N. Heath (No. 3704)
Zachary I. Shapiro (No. 5103)
Brett M. Haywood (No. 6166)
Travis J. Cuomo (No. 6501)
One Rodney Square
920 North King Street
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- and -

LATHAM & WATKINS LLP

George A. Davis (admitted *pro hac vice*)
Keith A. Simon (admitted *pro hac vice*)
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E-mail: george.davis@lw.com
keith.simon@lw.com
hugh.murtagh@lw.com
liza.burton@lw.com

*Proposed Counsel for Debtors
and Debtors-in-Possession*

EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , ¹	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	Jointly Administered
	:	
	:	Re: Docket No. _____
	X	

**ORDER PURSUANT TO SECTIONS 327(A) AND 328(A) OF THE BANKRUPTCY
CODE (A) AUTHORIZING THE EMPLOYMENT AND RETENTION OF HOULIHAN
LOKEY CAPITAL, INC. AS FINANCIAL ADVISOR AND INVESTMENT BANKER
TO THE DEBTORS, *NUNC PRO TUNC* TO THE PETITION DATE, (B) WAIVING
CERTAIN TIME-KEEPING REQUIREMENTS PURSUANT TO LOCAL RULE
2016-2(H) AND (C) GRANTING RELATED RELIEF**

Upon the application (the “Application”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), pursuant to Bankruptcy Code sections 327(a) and 328(a), Bankruptcy Rule 2014, and Local Rules 2014-1 and 2016-2(h), seeking the entry of an order (a) authorizing the Debtors to employ and retain Houlihan Lokey as their financial advisor and investment banker, *nunc pro tunc* to the Petition Date, pursuant to the Houlihan Engagement Letter, (b) approving the terms of the Houlihan Engagement Letter, (c) waiving certain time-keeping requirements pursuant to Local Rule 2016-2(h), and (d) granting related relief, all as further described in the Application; and the Court having jurisdiction to consider the Application and relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: EmERGE Energy Services, LP (2937), EmERGE Energy Services GP LLC (4683), EmERGE Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and EmERGE Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

consideration of the Application and the relief requested therein being a core proceeding in accordance with 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Application being adequate and appropriate under the particular circumstances; and a hearing (if any) having been held to consider the relief requested in the Application; and upon the Dunayer Declaration, the record of the hearing (if any) and all proceedings had before the Court; and the Court finding that (a) Houlihan Lokey (i) does not hold an interest adverse to the interest of the estates; and (ii) is a “disinterested person” as that term is defined under section 101(14) of the Bankruptcy Code; (b) the Application and the Dunayer Declaration are in full compliance with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules; and the Court having found and determined that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Application is granted to the extent set forth herein.
2. The retention and employment of Houlihan Lokey as financial advisor and investment banker to the Debtors pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rules 2014, and Local Rules 2014-1 and 2016-2(h), *nunc pro tunc* to the Petition Date, on the terms and conditions set forth in the Houlihan Engagement Letter and the Application, is approved.
3. Houlihan Lokey’s compensation shall be subject to the standard of review provided in section 328(a) of the Bankruptcy Code and not subject to any other standard of review under section 330 of the Bankruptcy Code.

4. Houlihan Lokey shall file applications for allowance of compensation and reimbursement of expenses pursuant to and in accordance with the procedures set forth in sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, the U.S. Trustee Guidelines, and any other applicable orders and procedures of this Court; *provided, however*, that Houlihan Lokey shall be compensated and reimbursed pursuant to section 328(a) of the Bankruptcy Code and that Houlihan Lokey's fees and expenses shall not be evaluated under the standard set forth in section 330 of the Bankruptcy Code. Notwithstanding any provision to the contrary in this Order, the United States Trustee for the District of Delaware (the "**U.S. Trustee**") shall have the right to object to Houlihan Lokey's request(s) for final compensation and reimbursement based on the reasonableness standard provided in section 330 of the Bankruptcy Code, not section 328(a) of the Bankruptcy Code. This Order and the record relating to the Court's consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee to challenge the reasonableness of Houlihan Lokey's fees under the standard set forth in the preceding sentence. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of Houlihan Lokey's fees; provided that reasonableness for this purpose will be an evaluation by comparing the fees payable to Houlihan Lokey in these Chapter 11 Cases to the fees paid to other investment banking firms for comparable services in other chapter 11 cases, and will not be evaluated primarily on the basis of time expended or the length of these Chapter 11 Cases.

5. In the event that, during the pendency of these Chapter 11 Cases, Houlihan Lokey requests reimbursement for any attorneys' fees and/or expenses, the invoices and supporting time records from such attorneys shall be included in Houlihan Lokey's fee applications, and such

invoices and time records shall be in compliance with Rule 2016-2(f) of the Local Rules of this Court, the U.S. Trustee Guidelines and approval of the Court under the standards of section 330 and 331 of the Bankruptcy Code, without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code and without regard to whether such attorney's services satisfy section 330(a)(3)(C) of the Bankruptcy Code. Notwithstanding the foregoing, Houlihan Lokey shall only be reimbursed for any legal fees incurred in connection with these Chapter 11 Cases to the extent permitted under applicable law and the decisions of this Court.

6. Notwithstanding anything to the contrary in the Application or any of its attachments, Houlihan Lokey shall comply with all requirements of Bankruptcy Rule 2016(a), and Local Rule 2016-2, including all information and time keeping requirements of subsection (d) of Local Rule 2016-2, except that Houlihan Lokey and its professionals shall be permitted to maintain time records of its services rendered for the Debtors in half-hour increments.

7. Notwithstanding anything to the contrary in the Application or any of its attachments, no amounts shall be paid to Houlihan Lokey absent an order of this Court approving a fee application filed on notice to parties in interest in these Cases under the procedures set forth in any order entered by the Court in these Chapter 11 Cases allowing for interim compensation, except that the Debtors are authorized to pay the \$125,000 Monthly Fee to Houlihan Lokey each month when required under the Engagement Letter without a prior fee application, *provided, however,* that Houlihan Lokey shall file monthly fee statements with time entries and requests for reimbursement that comply with Rule 2016-2 of the Local Rules of this Court, except as otherwise expressly set forth in this Order, pursuant to the deadlines and other procedures specified for monthly fee applications set forth in any order entered by the Court in these Chapter 11 Cases allowing for interim compensation.

8. The indemnification provisions set forth in the Houlihan Engagement Letter are approved, subject during the pendency of these Chapter 11 Cases to the following:

- (a) Subject to the provisions of subparagraphs (b) and (c) below, the Debtors are authorized to indemnify, and to provide contribution and reimbursements to, and shall indemnify, and provide contributions and reimbursement to, the Indemnified Parties for any claims arising from, related to, or in connection with the services to be provided by Houlihan Lokey as specified in the Application, but not for any claim arising from, related to, or in connection with Houlihan Lokey's post-petition performance of any other services other than those in connection with the engagement, unless such post-petition services and indemnification therefor are approved by this Court; and
- (b) The Debtors shall have no obligation to indemnify the Indemnified Parties for any claim or expense that is either (i) judicially determined (the determination having become final and no longer subject to appeal) to have arisen from any Indemnified Party's bad faith, gross negligence or willful misconduct, (ii) for a contractual dispute in which the Debtors allege the breach of Houlihan Lokey's or such Indemnified Party's contractual obligations, unless this Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to *In re United Artists Theatre Company, et. al.*, 315 F.3d 217 (3d Cir. 2003), or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by this Court, after notice and a hearing pursuant to subparagraph (c) *infra*, to be a claim or expense for which such Indemnified Party is not entitled to receive indemnity, contribution or reimbursement under the terms of the Houlihan Engagement Letter;
- (c) If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in this case (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing these Chapter 11 Cases, an Indemnified Party believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Application, including, without limitation, the advancement of defense costs, such Indemnified Party must file an application in this Court, and the Debtors may not pay any such amounts to such Indemnified Party before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by the Indemnified Parties for indemnification, contribution or reimbursement and not as a provision limiting the duration of the Debtors' obligation to indemnify the Indemnified Parties.

9. Notwithstanding anything in the Application, the Dunayer Declaration, or the Houlihan Engagement Letter to the contrary, the amount of the Restructuring Transaction Fee, if earned, shall be \$2,400,000.

10. Notwithstanding anything in the Application, the Dunayer Declaration, or the Houlihan Engagement Letter to the contrary, Houlihan Lokey shall waive its entitlement to a Financing Transaction Fee with respect to the HPS Financing.

11. Houlihan Lokey shall be compensated in accordance with the procedures set forth in the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, this Order, and any other applicable orders of this Court.

12. This Court shall retain jurisdiction to construe and enforce the terms of this Order.

Dated: _____, 2019
Wilmington, Delaware

THE HONORABLE KAREN B. OWENS
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Dunayer Declaration

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

----- X
In re: : Chapter 11
: :
EMERGE ENERGY SERVICES LP, *et al.*,¹ : Case No. 19-11563 (KBO)
: :
Debtors. : Jointly Administered
: :
----- X

DECLARATION OF ADAM DUNAYER IN SUPPORT OF APPLICATION OF THE DEBTORS FOR THE ENTRY OF AN ORDER PURSUANT TO SECTIONS 327(A) AND 328(A) OF THE BANKRUPTCY CODE (A) AUTHORIZING THE EMPLOYMENT AND RETENTION OF HOULIHAN LOKEY CAPITAL, INC. AS FINANCIAL ADVISOR AND INVESTMENT BANKER TO THE DEBTORS, NUNC PRO TUNC TO THE PETITION DATE, (B) WAIVING CERTAIN TIME-KEEPING REQUIREMENTS PURSUANT TO LOCAL RULE 2016-2(H) AND (C) GRANTING RELATED RELIEF

I, Adam Dunayer, declare as follows:

1. I am familiar with the matters set forth herein and, if called as a witness, I could and would testify thereto. Unless otherwise defined, all capitalized terms used herein have the meanings ascribed to them in the Application.

2. I am a Managing Director of Houlihan Lokey Capital, Inc. (“**Houlihan Lokey**”) and am duly authorized to execute this declaration (the “**Declaration**”) on behalf of Houlihan Lokey.

3. I make this Declaration in support of the *Application of the Debtors for the Entry of an Order Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code (A) Authorizing the Employment and Retention of Houlihan Lokey Capital Inc. as Financial*

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services, LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

Advisor and Investment Banker to the Debtors, Nunc Pro Tunc to the Petition Date, (B) Waiving Certain Time-Keeping Requirements Pursuant to Local Rule 2016-2(h) and (C) Granting Related Relief (the “**Application**”).² This Declaration is also submitted as the statement required pursuant to sections 327(a), 328(a), 329, and 504 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2014(a) and 2016(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedures of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”).

4. Houlihan Lokey is an internationally recognized investment banking and financial advisory firm, with twenty-two offices worldwide and more than 950 professionals. Houlihan’s Financial Restructuring Group, which has more than 225 professionals, is one of the leading advisors and investment bankers to unsecured and secured creditors, debtors, acquirers, and other parties-in-interest involved with financially troubled companies both in and outside of bankruptcy. Houlihan Lokey has been, and is, involved in some of the largest restructuring cases in the United States, including representing official committees in *Lehman Brothers Holdings Inc.*, *Arcapita Bank B.S.C(c)*., *Enron Corp.*, *WorldCom, Inc.*, *Delta Air Lines, Inc.*, *General Growth Properties*, *Capmark*, and representing debtors in *Murphy Energy Corporation* (a global oil and gas production company), *Mark IV Industries*, *Buffets Holdings, Inc.*, *Bally Total Fitness Holding Corp.*, *XO Communications, Inc.*, *Six Flags, Inc.*, *Granite Broadcasting Corp.*, and *MS Resorts*.

5. Houlihan Lokey has agreed to provide investment banking and financial advisory services to the Debtors in the above-captioned Chapter 11 Cases pursuant to the terms

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Application.

and conditions of that certain engagement letter dated December 31, 2018 (the “**Houlihan Engagement Letter**”) by and between Houlihan Lokey and Emerge Energy Services LP (collectively with its direct and indirect subsidiaries, the “**Company**”). The Houlihan Engagement Letter is attached to the Application as Exhibit C.

6. Among other things, the Houlihan Engagement Letter provides that the Debtors shall indemnify Houlihan Lokey and certain other Indemnified Parties against any and all losses, claims, damages, or liabilities to which Houlihan Lokey or the other Indemnified Parties may become subject in connection with services provided pursuant to the Houlihan Engagement Letter. The Debtors shall pay Houlihan Lokey’s fees and expenses, including counsel fees, as they are incurred in defending any such claim. Where it has been determined in a final judgment, no longer subject to appeal, by a court of competent jurisdiction that the claim resulted primarily from the gross negligence or willful misconduct of Houlihan Lokey or an Indemnified Party, the Debtors shall not be liable for indemnifying Houlihan Lokey or the other Indemnified Parties. Notwithstanding a final judgment determining that a claim did not result from Houlihan Lokey’s gross negligence or willful misconduct, the Debtors shall not pay any indemnification claim without further notice and a hearing before the Bankruptcy Court for approval of such payment.

7. In addition to me, the principal professionals who have rendered, and are expected to render, services to the Debtors are as follows: Justin Zammit, Senior Vice President, Ariel Berkowitz, Financial Analyst, and Colton Gier, Financial Analyst. A summary of the qualifications of the principal professionals is attached hereto as Schedule 1 and is incorporated herein by this reference.

8. By way of further disclosure:

- (a) From time to time, Houlihan Lokey's Financial Restructuring Group, which is providing the services in this case, has provided services, and likely will continue to provide services to certain attorneys, other professionals, creditors (including lenders) and/or security holders of the Debtors and various other parties, some of whom may be providing services to, or may be adverse to, or may be otherwise connected to, the Debtors, in each case in matters unrelated to these Chapter 11 Cases.
- (b) In addition to its Financial Restructuring Group, Houlihan Lokey and the other subsidiaries of its direct parent company, Houlihan Lokey, Inc., that are engaged in providing investment banking and financial advisory services globally (collectively, the "**Houlihan Lokey Group**") provide services to a wide range of institutions and individuals and may in the past have had, and may currently or in the future have, financial advisory or other investment banking or consulting relationships with parties that may have interests with respect to the Debtor. In the ordinary course of business, investment funds affiliated with the Houlihan Lokey Group and certain of the Houlihan Lokey Group's employees, as well as investment funds in which such employees may have financial interests, but over whose investment decisions such employees have no input or control, may acquire, hold or sell, long or short positions, or trade or otherwise effect transactions, in debt, equity, and other securities and financial instruments (including bank loans and other obligations) of, or investments in, the Debtors or other parties that may have an interest in these Chapter 11 Cases or have other relationships with such parties. With respect to any such securities, financial instruments, and/or investments, all rights in respect of such securities, financial instruments, and investments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion. Moreover, the Houlihan Lokey employees who are working on these Chapter 11 Cases are subject to compliance mechanisms and policies and procedures designed to prevent confidential, non-public information from being improperly shared.
- (c) HL Finance, LLC, a direct subsidiary of Houlihan Lokey, Inc., acts as an arranger of syndicated loans for corporate entities and, in connection with such activities, may contract with third-party investors that may provide commitments with respect to certain syndicated loans arranged by HL Finance, LLC. The third-party investors are unrelated to and are not affiliates of the Houlihan Lokey Group; the Houlihan Lokey Group does not engage in asset management activities. HL Finance, LLC and Houlihan Lokey, Inc. are parties to such an agreement with HPS Investment Partners, LLC with respect to providing commitments, as described above. HL Finance and certain employees of Houlihan Lokey may have in the past, and may in the future, arrange syndicated loans for entities that may be or become parties in interest in these Chapter 11 Cases in matters unrelated to the Debtors and these Chapter 11 Cases, and third party investors that provided commitments with respect to such syndicated loans may be or become parties in interest in these Chapter 11 Cases.

- (d) In January 2018, prior to the launch of the HL Finance, LLC platform, Houlihan Lokey acted as placement agent for the Debtors with respect to the placement of senior secured notes and a revolving credit facility. In the transaction, HPS Investment Partners, LLC and Pacific Investment Management Company (“PIMCO”) acquired the senior secured notes (as well as common units), and PNC Bank N.A. provided the revolver. HPS Investment Partners, LLC, PIMCO, and PNC Bank N.A. are creditors in these Chapter 11 Cases. Houlihan Lokey was also engaged to provide certain investment banking services to the Debtors in 2017 and 2018, respectively, with respect to certain other completed and contemplated capital markets transactions.
- (e) Houlihan Lokey Financial Advisors, Inc., a direct subsidiary of Houlihan Lokey, Inc., provides valuation opinions on the securities and derivative holdings of various business development companies, private equity firms and hedge funds, which may include debt securities of the Debtors, through its Hedge Fund and Derivatives Valuation Services Group. This work is unrelated to the financial advisory and investment banking services that Houlihan Lokey Capital, Inc. intends to provide in these Chapter 11 Cases. Moreover, through the establishment of an “Information Wall,” Houlihan Lokey Financial Advisors, Inc. has separated its employees in the Hedge Fund and Derivatives Valuation Services Group from the employees of Houlihan Lokey’s Financial Restructuring Group, including the professionals who will be working on these Chapter 11 Cases. This “Information Wall” includes physical and technological barriers, compliance mechanisms and policies and procedures designed to prevent confidential, non-public information and work product from being shared improperly.
- (f) In the ordinary course of its business, Houlihan Lokey from time to time discusses issues concerning stressed and distressed companies with creditors and prospective creditors that are clients of the firm, or that otherwise contact Houlihan Lokey, or that are referred to the firm in light of Houlihan Lokey’s reputation for covering such companies and/or relevant industry expertise. At the time of those contacts, it is not known whether any particular company will actually file for bankruptcy, or if any of these creditors and/or potential creditors will serve on any future Committee, or even be a creditor of the relevant estate in the event of a future bankruptcy. It is also Houlihan Lokey’s customary practice to communicate with and, when appropriate or requested, send materials to one, or more, of the 50 largest unsecured creditors identified by a debtor and who are, therefore, potential members of a creditors’ committee, if we either know, work with, are contacted by, or are otherwise referred to the relevant creditor. In some circumstances, we may contact potential committee members with whom we are not previously familiar.
- (g) Houlihan Lokey personnel may have business associations with certain creditors of the Debtors or counsel or other professionals involved in these Chapter 11 Cases on matters unrelated to these Chapter 11 Cases. In addition, in the ordinary

course of its business, Houlihan Lokey may engage counsel or other professionals in unrelated matters who now represent, or in the future may represent, creditors or other interested parties in these Chapter 11 Cases.

9. To determine its relationship with parties in interest in these Chapter 11 Cases, Houlihan Lokey has researched the client databases maintained with respect to the Houlihan Lokey Group to determine whether it has any relationships with the entities (individually an “**Interested Party**” and collectively, the “**Interested Parties**”) that were identified to Houlihan Lokey by the Debtor. Such entities include the following: (i) the Debtors and their affiliates; (ii) the Debtors’ (a) officers and directors, (b) lenders and their affiliates, (c) lenders’ restructuring advisors, (d) equity interest holders, (e) banking institutions, (f) insurance carriers, (g) other professionals proposed to be retained in these Chapter 11 Cases, (h) vendors, (i) taxing authorities, (j) utility providers, (k) potential major unsecured creditors, (l) key customers, (m) significant competitors and (n) relevant governmental and regulatory agencies; and (iii) the United States Trustee for the District of Delaware, judges and court personnel for the District of Delaware.

10. The attached Schedule 2 details the relationship check performed by Houlihan Lokey and identifies any relationships discovered through such investigation that members of the Houlihan Lokey Group have with any Interested Parties in these Chapter 11 Cases.

11. To the best of my knowledge, information, and belief after reasonable inquiry, other than as disclosed in this Declaration, neither I, the Houlihan Lokey Group, nor any of our professionals or employees participating in or connected with Houlihan Lokey’s engagement with the Debtors (i) is related to the Debtors or any other party in interest herein, the United States Trustee for this District, or anyone employed in the United States Trustee’s Office for this District; (ii) has any connection with or holds or represents any interest adverse to the Debtors or

their estates; or (iii) has advised any Interested Party, except for the Debtors, in connection with these Chapter 11 Cases. In addition, Houlihan Lokey does not believe that any relationship that the Houlihan Lokey Group, or any of our professionals or employees participating in or connected with Houlihan Lokey's engagement with the Debtors may have with any Interested Party in connection with any unrelated matter will interfere with or impair Houlihan Lokey's representation of the Debtors in these Chapter 11 Cases.

12. To the extent Houlihan Lokey discovers any facts bearing on the matters described herein during the period of Houlihan Lokey's retention, Houlihan Lokey undertakes to amend and supplement the information contained in this Declaration to disclose such facts.

13. Based on all of the foregoing, Houlihan Lokey is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code.

14. No agreement presently exists to share with any other person or firm any compensation received by Houlihan Lokey for its services in this case. If any such agreement is entered into, Houlihan Lokey undertakes to amend and supplement this Declaration to disclose the terms of any such agreement.

15. No promises have been received by Houlihan Lokey, or by any employee thereof, as to compensation in connection with this case other than in accordance with the provisions of the Bankruptcy Code.

16. I am generally familiar with the Bankruptcy Code and the Bankruptcy Rules, and Houlihan Lokey will comply with them, subject to the Orders of this Court.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: July 24, 2019

A handwritten signature in black ink that reads "Adam Dunayer". The signature is written in a cursive style with a large initial 'A'.

Adam Dunayer
Managing Director

SCHEDULE 1

Principal Professionals

Adam Dunayer (Managing Director):

Mr. Dunayer is a member of Houlihan Lokey's Financial Restructuring Group. He leads the firm's Southwest financial restructuring and national distressed-company M&A efforts. Mr. Dunayer has over two decades of experience consummating transactions and providing strategic advice to companies and creditors in connection with in- and out-of-court financial restructurings, mergers, acquisitions, and dispositions. He also has extensive experience raising debt and equity capital in public and private markets. Mr. Dunayer is based in the firm's Dallas office.

Mr. Dunayer's experience spans industries including energy and oilfield services, consumer products, food, healthcare, building products, general industrial, telecom, and technology. His recent engagements include Quicksilver Resources (company), Spansion (secured creditors), Innovative Communication (company), Heartland Automotive (secured creditors), Pilgrim's Pride (equity committee), and Global Home Products (company). Mr. Dunayer speaks frequently on trends and issues in restructuring, distressed M&A, and other topics. He has also testified as an expert witness on a variety of bankruptcy and restructuring issues.

Before joining Houlihan Lokey, Mr. Dunayer was a Managing Director with Bear, Stearns & Co. In addition, he was an Executive Vice President and Chief Financial Officer with Miller Industries, where he also served as President of the company's largest subsidiary.

Mr. Dunayer holds a B.B.A. from the University of Texas at Austin. He is a member of the American Bankruptcy Institute and the Turnaround Management Association.

Justin Zammit (Senior Vice President):

Mr. Zammit is a member of Houlihan Lokey's Financial Restructuring Group and Oil & Gas Exploration and Production Group. He has advised public and private companies and creditor groups on M&A, financing, and financial restructuring transactions across a broad spectrum of industries. Mr. Zammit is based in the Firm's Dallas office.

Mr. Zammit's oil & gas transaction experience includes Preferred Sands, Philadelphia Energy Solutions, Permian Tank, Berry Petroleum/Linn Energy, Seventy Seven Energy, Swift Energy Co., Quicksilver Resource Corp, Signal International, and Southern Pacific Resources. Other notable transaction experience includes Allen Systems Group, Alco Stores, American Airlines, Medical Staffing Network, and other transactions in the consumer products, healthcare, infrastructure, manufacturing, and transportation industries.

Prior to joining Houlihan Lokey, Mr. Zammit was with Deloitte Corporate Restructuring Group, where he provided financial restructuring advisory services.

In addition, Mr. Zammit is an eight-year veteran of the United States Marine Corps Reserve, where he served on two overseas deployments with the 2nd and 3rd Battalions of the 25th Marine Regiment and was honorably discharged at the rank of Sergeant.

Mr. Zammit holds a B.A. in Economics from the University at Buffalo and M.S. degrees in both Finance and Accounting from the University of Texas at Dallas.

Ariel Berkowitz (Financial Analyst):

Mr. Berkowitz is a Financial Analyst in Houlihan Lokey's Financial Restructuring Group and is based in the firm's Dallas office.

Prior to joining Houlihan Lokey, Mr. Berkowitz worked as a senior associate within the Bankruptcy & Restructuring group at EisnerAmper LLP in New York, NY, where he focused on

mid-market debtor side engagements both in- and out-of-court. He also has experience as an investment analyst at Platinum Partners.

Mr. Berkowitz holds a B.S. in Economics from University of Maryland – College Park.

Colton Gier (Financial Analyst):

Mr. Gier is a Financial Analyst in Houlihan Lokey's Financial Restructuring Group and is based in the firm's Dallas office.

Prior to joining Houlihan Lokey, Mr. Gier worked as a summer analyst at EnCap Investments L.P. in Dallas, TX.

Mr. Gier holds a B.B.A. in Finance from Southern Methodist University

SCHEDULE 2 - ANNEX A

Relationship Check

1. **Debtors and Affiliated Entities**

Emerge Energy Services LP
Emerge Energy Services Operating LLC
Superior Silica Sands LLC
Emerge Energy Services Finance Corporation
Emerge Energy Services GP LLC
Emerge Energy Services Holdings LLC
Insight Equity Management Company LLC
AEC Resources LLC
Superior Silica Resources LLC

2. **Debtors' Previous Names and Previously Owned Entities**

Allied Energy Company LLC
Allied Renewable Energy, LLC
Direct Fuels, LLC
Emerge Energy Distributors Inc.

3. **Debtors' Restructuring Professionals**

Latham & Watkins LLP	Ankura Consulting Group, LLC
Houlihan Lokey, Inc.	Richards, Layton & Finger, P.A.
KCC	

4. **Debtors' Ordinary Course Professionals**

A.T. Tax Advisory	Shook Hardy & Bacon
Jackson Walker	Opportune LLP

5. **Letter of Credit Issuers**

PNC Bank, National Association

6. **Major Secured Lenders (Including Current and Former Administrative Agents)**

PNC Bank, National Association	OHA MPS SSD, L.P.
HPS Investment Partners, LLC	The Coca-Cola Company Master Retirement Trust
Mezzanine Management III, LLC	OHA Enhanced Credit Strategies GenPar, LLC
MPIII Offshore Mezzanine Investments, L.P.	Future Fund Board of Guardians
AP Mezzanine Partners III, L.P.	Indiana Public Retirement System
OC II LVS III LP	Lerner Enterprises, LLC
OHA-CDP ESCF, L.P.	OCA OHA Credit Fund LLC
OHA BCSS SSD, L.P.	

PIMCO
Oakhill
OHA Centre Street Partnership, L.P.
Oregon Public Employees Retirement Fund
OHA AD Customized Credit Fund
(International) BL I, L.P.

Master SIF SICA V-SIF
Finlandia Credit Fund, L.P.
US Bank National Association

7. **Other Secured Creditors and Parties Who Have Filed Liens**

Bollenbach Concrete, Inc.
Capital Plumbing, LP
EnDeCo Engineers, Inc.
Engineered Software Products, Inc.
Market & Johnson, Inc.
B&B Electric Inc.
Airing Equipment Company Inc.
ASA
Cahill Gordon & Reindel LLP
Barron Electric Cooperative
FABCO Equipment Inc.
First National Bank Mahnomon Twin Valley
John Deere Credit
John Deere Financial
Kinetic Leasing, Inc.
Ascentium Capital LLC
Ahern Rentals, Inc.

Texas First Rentals LLC
Vantage Mechanical, LLC
Zapata Construction Services
TMT Solutions, Inc.
Corporation Service Company
CT Lien Solutions
Deere Credit, Inc.
Komatsu Financial Limited Partnership
Caterpillar Financial Services Corporation
The CIT Group/Equipment Financing, Inc.
RDO Equipment Co.
U.S. Bank National Association
Wells Fargo Vendor Financial Services,
LLC
RB Scott Company, Inc.

8. **Counsel/Professionals to Major Secured Lenders**

Weil, Gotshal & Manges LLP
Holland & Knight LLP

9. **Holders of 1% or More of Outstanding Common Equity Securities of the Debtors**

Insight Equity Management Company LLC
Ted W. Beneski
HPS Investment Partners, LLC or affiliates

10. **Current and Former Officers and Directors of General Partner**

Ted W. Beneski (Chairman)
Rick Shearer (CEO and Director)
Warren Bonham (VP and Director)
Kevin Clark (Director)
Mark Gottfredson (Director)
Peter Jones (Director)

Francis J. Kelly, III (Director)
Eliot E. Kerlin, Jr. (Director)
Victor L. Vescovo (Director)
Eugene I. Davis (Director)
Deborah Deibert (CFO)
Christopher Loy (CFO)

Nadya Kurani (CAO)
William Transier (Director)
Robby Myers (VP of Finance)

Roy Messing (CRO)
Bryan Gaston (Restructuring Officer)
Bill Transier (Director)

11. **Major Suppliers, Vendors, and Other Parties**

United Rentals (North America), Inc.
Ingram Readymix Inc.
Trinity Industries Leasing Company
MUL Railcars Leasing, LLC
SMBC Rail Services LLC
CIT Rail LLC
TIAA Commercial Finance Inc. (f/k/a
Everbank Commercial Finance Inc.)
Diversity Technologies Corp
Evergreen Transloading Terminal LTD
Tidewater Logistics Corp
Tidewater Logistics Operating LLC
Susser Petroleum Operating Company LLC
Sunoco LP
Materials Holding Company, Inc.
Osburn Materials, Inc.
Osburn Sand Co.
South Lehr, Inc.
AquaSmart Enterprises LLC
Cooper Engineering Company, Inc.
Westward Environmental, Inc.
Union Pacific Railroad Company
BNSF Railway Company
Canadian National Railway
ConocoPhillips
Rango
Prairie Transportation, Inc.
Iowa Northern Railway Company
EES Offshore, LLC
Vista Proppants and Logistics, LLC
EP Energy Corporation
Sanchez Energy Corporation
Sierra Resources, LLC
Hexion
Lewis Energy Group, LP
Marathon Oil Corporation
ISCO Industries, Inc.
RSI Logistics, Inc.
Graceland Rental
Southern Refractories, Inc.
WildHorse Resource Development Corp.

Penn Virginia Corporation
Boomtown Oil
FTS International Services, LLC
Patterson – UTI Energy Inc.
CSP-Permian LLC
Oak Hill Advisors
Escanaba & Lake Superior Railroad Co.
Rail Logix Alamo Junction, LLC
Creative Railcar Marketing Services, LLC
Viper Rail Car Storage
Horseheads Sand and Transloading
Terminal
Canadian Pacific Railway Company
Fort Worth & Western Railroad
Texas Pacifico Transportation, Ltd.
BNSF Railway Corporation
Norfolk Southern Railway Company
CSX Transportation
A-1 Excavating, Inc.
A-1 Express Trucking, Inc.
Stout Excavating Group, LLC
Price River Terminal LLC
Process Engineering and Equipment Corp.
CN Customs Brokerage Services
Gerard Daniel Worldwide
Hychem, Inc.
Minnesota Commercial Railway
Cooper Engineering Company
Rotex Global, LLC
The Ultimate Service Group
Progressive Rail Inc. (dba Wisconsin
Northern Railroad)
Nova Healthcare, P.A.
PNC Bank N.A.
Citizens Community Federal N.A.
Geoflight Aerial Mapping
Blake, Cassels & Graydon LLP
Pirinate Consulting Group, LLC
Grant Thornton LLP
Nexus Program Management Group, LLC
Lyons, Beneson & Co.

PricewaterhouseCoopers LLP
BDO USA, LLP

12. **Foreign Vendors**

Di-Corp Sand Transloading LP
Torq Transloading Inc.
ANC Transloading, Inc.
Argus
BA Hunter Holdings, LLC
Boy Scouts of America
Calfrac Canada
Canader Enterprises LTD
Carlos Clark
CDE Global Ltd.
Central Manitoba Railway, Inc.
Encana Services Company, LTD
Fleetwatch Systems, Inc
Hughson Trucking
Iron Horse Energy Services
MapTown
Van der Graaf Drum Motors
2022573 Alberta Inc. (Torq Energy Buick)

Maxie's Excavating
Nelson Machinery & Equipment
OnPayroll.ca Canada Corp.
Outotec
Patricia Walters
Premier Industrial Hose Manufacturing
LTD
Promix Mixing Equipment & Engg. LTD
Sand Source Services
Service Stream
Source Energy Services
STEP Energy Services LTD
Tandet Logistics, Inc
Terracor Logistics (USA) Inc
Tervita Corporation
Transand Inc.

13. **Utility Providers**

Anchored Oak, LLC
Anderson Sanitation
Apache Disposal
AT&T
AT&T Dallas
AT&T Long Distance
Barron County Finance
Barron Electric
Barron Light & Water
Bloomer Telephone
Century Link
Charter Communications Operating, LLC
Chippewa Valley Energy
Cimarron Electric Cooperative Inc.
Citizens Connected
City Public Service
Entergy
Jackson Electric

Marabou Energy Management, LLC
Marabou Superior Pipeline, LLC
Mosaic
New Auburn Utilities
Pioneer Telephone Cooperative, Inc.
Red Gap Communications, Inc.
Republic Services, Inc.
Suburban Propane
Streetwater Sanitation
Synergy Community Cooperative Inc.
Verizon Wireless
Waste Connections Management Services,
Inc.
Waste Management of WI-MN
WE Energies
Xcel Energy

14. **Potential Major Unsecured Creditors (including all Counterparties to Major Contracts)**

16 Sands, LLC
RBScott Company, Inc.
Marabou Superior Pipeline, LLC
Iron Mountain Trap Rock Co.
BMT Consulting Group, LLC
Di-Corp Sand Transloading LP
Engineered Software Products, Inc.
H&K Electrical
Rail Logix Alamo Junction, LLC
Motion Industries
Relevant Solutions
DRT Bio-Solids, Inc.
City Public Service Board (CPS Energy)
J & S Materials, LLC (Madden Materials)
WIScale, LLC
Utility Energy Systems, Inc.
Motion Engineering, Inc.
Wells Fargo Rail Corporation
Chicago Freight Car Leasing Co.
Martin Engineering
Investors Bank
Espey Silica Sand Co., Inc.
Brian Nelson Trucking, Inc.
Techline Pipe LP
Morlandt Electric Company
Texas Crane Services
Randall J. Slaby

Modern Material Services, Inc. (dba Arrow
Material Services)
Fred Weber, Inc.
Elliot Electric Supply, Inc.
AmeriTex Pipe & Products LLC
Conveyer Components Company
Ally Bank Lease Trust
Capital Aggregates Inc.
Traut Companies
Wells Fargo
Lone Star Construction
Keokuk Junction Railway Co.
Wisconsin Great Northern Railroad
Total Excavating, LLC
Shawn Lombardo
Cat Financial
Industrial Tax Consulting
Clearfork Office 1, LP
Ford Motor Credit Company LLC (d/b/a
Ford Credit)
Herc-U-Lift, Inc.
Industrial Construction Specialists LLC
K.C. Electric, Inc.
Knapp Railroad Builders, Inc.
James M. Warner
Olson Explosives Inc.

15. **Significant Customers**

Liberty Oilfield Services, LLC
EP Energy E&P Company, L.P.
Devon Energy Production Company, L.P.
BJ Services, LLC
EOG Resources, Inc.
Texas Specialty Sands, LLC

Hawkwood Energy Operating, LLC
Chesapeake Operating, L.L.C.
Schlumberger Technology Corporation
Universal Pressure Pumping, Inc.
Stevens Tanker Division, LLC

16. **Counterparties to Significant Real Property and Personal Property Leases
(including Royalty Interest Owners)**

Cory Picknell
Janelle Picknell
David Lundequam
Marlys Lundequam
Kevin L. Pietz

Wisconsin Sand Distributers, LLC
Fred Weber, Inc.
Terry L. Thompson
Monte E. Thompson
Rhonda M. Thompson

Elizabeth C. Oietz
Dennis C. Culver
Patsy L. Culver
Christopher C. Culver
Linda M. Culver
Tonya Nicole Glaser
Robert W. Hass
Darlene Hass
David F. Dobbs
Bonnie K. Dobbs
Lary R. Boese
Anna M. Boese
Nicole Boese
Linda C. Best Trust
Albertina Larson
Phillip Larson
Eric Larson
Lacey Larson
Kenneth Larson
Lorna Larson
10K International
Allen Filla
Robert Smith
Kristin Little-Smith
Andrew Puchalla
Carol Puchalla
Town of Clinton, WI
Town of Sioux Creek, WI
Barron County Highway Department

Wax Worms, Inc.
Joseph M. Diedrich
Sonja J. Deidrich
Bryan D. Yenter
Sara J. Yenter
Kevin Yenter
John W. VanBeek
Mary J. VanBeek
Robert J. Schaaf
Sioux Creek Landowners, LLC
Tainter Creek Sand, LLC
Dale Scribner
Debra Scribner
David Fall
Pamela Fall
Dennis Korpall
Rosemary Korpall
Kevin Welein
Kristine Benusa
Ryan, LLC
Scott Weaver
Truat Companies
Edward J. Grulkowski Living Trust
Gregory Korpall
Sand Depot 2, LLC
Wheeling & Lake Erie Railway Company
Denny Culver
Gerald Glaser

17. **Parties to Litigation**

Plaintiffs

Jennifer Fernandez (Individually and as a Representative for the Estate of Rodney Fernandez)
CAI Rail, Inc.
The Andersons Inc.
Capitol Aggregates, Inc.
3-B Dozer Service, LLC
Pownall Services LLC
Greenbrier Leasing Company, LLC
OmniTrax Logistics Services, LLC
Midwest Frac & Sand, LLC

18. **Beneficiaries of Guarantees, Performance or Payment/Surety Bonds**

Barron County Soil and Water Conservation Department

Chippewa County Department of Land Conservation and Forest Management
State of Oklahoma
State of Wisconsin

19. **Major Benefits Administrators or Additional Third Party Administrators**

The Ultimate Software Group, Inc.	Benefit Strategies, LLC
HSA Bank	Metropolitan Life Insurance Company
BB&T Retirement Services	VSP Global
Temporary Staffing Agency	Mutual of Omaha Insurance Company
Blue Cross Blue Shield	AFLAC Inc.
UnitedHealthcare	

20. **Insurers, Brokers, and Issuers of Surety Bonds**

Aspen Specialty Insurance Co.	Endurance American Insurance Co.
Starr Indemnity & Liability Co.	Great American Insurance Co.
Colony Insurance Co.	Zurich American Insurance Co.
Covington Specialty Insurance Co.	AFCO Credit Corporation
Indian Harbor Insurance Co.	Willis of Texas, Inc.
Markel American Insurance Co.	Merchants Bonding Company Mutual
Freedom Specialty Insurance Co.	Atlantic Specialty Insurance Company
XL Specialty Insurance Co.	Conservation and Forest Management
Illinois National Insurance Co.	Everest Reinsurance Company
Allied World National Assurance Co.	One Beacon Insurance Group

21. **Major Competitors**

U.S. Silica Holdings Inc.
Hi-Crush
Covia Holdings Corporation
Monarch Silica
Black Mountain Sand

22. **Taxing and Other Significant Governmental Authorities**

Canada Revenue Agency	Tarrant County, TX
Texas Department of Revenue	Town of Dovre, WI
City of Barron, WI	Village of New Auburn, WI
Town of Alma, WI	Delaware Division of Revenue
Town of Arland, WI	IRS Department of Treasury
Town of Auburn, WI	City of Barron, WI
Bexar County, TX	
Barron County, Wisconsin	

23. **United States Bankruptcy Judges in the District of Delaware**

The Honorable Brendan L. Shannon
The Honorable Christopher S. Sontchi,
Chief Judge
The Honorable Kevin Gross
The Honorable John T. Dorsey

The Honorable Karen B. Owens
The Honorable Kevin J. Carey
The Honorable Laurie Selber Silverstein
The Honorable Mary F. Walrath

24. **Staff for the Honorable**

Claire Brady
Marquetta Lopez

25. **United States Trustee for the District of Delaware (and Key Staff Members)**

Benjamin Hackman, Trial Attorney
Christine Green, Paralegal Specialist
David Buchbinder, Trial Attorney
Diane Giordano, Bankruptcy Analyst
Dion Wynn, Paralegal Specialist
Edith A. Serrano, Paralegal Specialist
Hannah M. McCollum, Trial Attorney
Holly Dice, Auditor (Bankruptcy)
Jaclyn Weissgerber, Trial Attorney
James R. O'Malley, Bankruptcy Analyst
Jane Leamy, Trial Attorney
Jeffrey Heck, Bankruptcy Analyst
Juliet Sarkessian, Trial Attorney

Karen Starr, Bankruptcy Analyst
Linda Casey, Trial Attorney
Linda Richenderfer, Trial Attorney
Lauren Attix, OA Assistant
Michael Panacio, Bankruptcy Analyst
Michael West, Bankruptcy Analyst
Ramona Vinson, Paralegal Specialist
Richard Schepacarter, Trial Attorney
Shakima L. Dortch, Paralegal Specialist
T. Patrick Tinker, Assistant U.S. Trustee
Timothy J. Fox, Jr., Trial Attorney

26. **Clerk of Court and Deputy for the District of Delaware**

Stephen Grant, Chief Deputy Clerk
Una O'Boyle, Clerk of Court

SCHEDULE 2 - ANNEX B

Results of Relationship Check

Board Membership

Ben Van De Bunt
Hideto Nishitani
Jacqueline B Kosecoff
Paul E. Wilson
Robert A. Schriesheim
Robert J. B. Lenhardt
Ronald K. Barger

Houlihan Lokey Corporate Finance – Active Engagements

Susquehanna International Group LLC

Houlihan Lokey Corporate Finance – Closed Engagements

BB&T Retirement Services
Blue Cross Blue Shield
Chesapeake Operating, L.L.C.
Grant Thornton LLP
Houlihan Lokey, Inc.
HPS Investment Partners, LLC
Insight Equity Management Company LLC
John Deere Credit
Liberty Oilfield Services, LLC
Oakhill
PIMCO
The CIT Group/Equipment Financing, Inc.
Wells Fargo

Houlihan Lokey Financial Advisory Services – Active Engagements

Ally Bank Lease Trust
Ascentium Capital LLC
AT&T
BJ Services, LLC
Blue Cross Blue Shield
Chesapeake Operating, L.L.C.
Lerner Enterprises, LLC
Metropolitan Life Insurance Company
The CIT Group/Equipment Financing, Inc.

Houlihan Lokey Financial Advisory Services – Active Engagements

Wells Fargo

Houlihan Lokey Financial Advisory Services – Closed Engagements

AFLAC Inc.
Ally Bank Lease Trust
Ascentium Capital LLC
AT&T

BJ Services, LLC
Blue Cross Blue Shield
Chesapeake Operating, L.L.C.
Encana Services Company, LTD
First National Bank Mahanomen Twin Valley
Ford Motor Credit Company LLC (d/b/a Ford Credit)
Grant Thornton LLP
Greenbrier Leasing Company
Hexion
Hi-Crush
Holland & Knight LLP
HPS Investment Partners, LLC
Insight Equity Management Company LLC
Investors Bank
IRS Department of Treasury
Latham & Watkins LLP
Lerner Enterprises, LLC
Metropolitan Life Insurance Company
Mosaic
Oakhill
Penn Virginia Corporation
PIMCO
PricewaterhouseCoopers LLP
RDO Equipment Co.
Republic Services, Inc.
Richards, Layton & Finger, P.A.
Sanchez Energy Corporation
Shook Hardy & Bacon
State of Wisconsin
Susser Petroleum Operating Company LLC

Houlihan Lokey Financial Advisory Services – Closed Engagements

The CIT Group/Equipment Financing, Inc.
The Ultimate Software Group, Inc.
TIAA Commercial Finance Inc. (f/k/a Everbank Commercial Finance Inc.)
U.S. Silica Holdings Inc.
US Bank National Association
Verizon Wireless
Weil, Gotshal & Manges LLP
Wells Fargo

Houlihan Lokey Strategic Consulting – Closed Engagements

Blue Cross Blue Shield
City Public Service Board (CPS Energy)

EXHIBIT C

Houlihan Engagement Letter



HOULIHAN LOKEY

Personal and Confidential

As of December 31, 2018

Emerge Energy Services LP
6000 Western Place, Suite 465
Fort Worth, TX 76107
Attn: Deborah Deibert, Chief Financial Officer

Dear Ladies and Gentlemen:

This letter agreement (this “Agreement”) confirms the terms under which EmERGE Energy Services LP (collectively with its direct and indirect subsidiaries, the “Company”) has engaged Houlihan Lokey Capital, Inc. (“Houlihan Lokey”), effective as of the date indicated above (the “Effective Date”), as its exclusive financial advisor to provide financial advisory and investment banking services in connection with one or more amendment transactions involving, one or more financing transactions for, and/or a financial restructuring or reorganization of the Company and with respect to such other financial matters as to which the Company and Houlihan Lokey may agree in writing during the term of this Agreement. This Agreement replaces and the parties hereto agree to terminate the previous letter agreement dated November 26, 2018 between the Company and Houlihan Lokey (the “Capital Markets Agreement”) in accordance with the terms of the Capital Markets Agreement, which shall be of no further force or effect except as otherwise provided for in the Capital Markets Agreement.

1. **Services.** In connection with each potential Transaction (as defined below), Houlihan Lokey will assist and advise the Company with the analysis, evaluation, pursuit and effectuation of any such Transaction. Houlihan Lokey’s services will consist of, if appropriate and if requested by the Company, (i) assisting the Company in the development and distribution of selected information, documents and other materials, including, if appropriate, advising the Company in the preparation of a financing offering memorandum (it being expressly understood that the Company will remain solely responsible for such materials and all of the information contained therein); (ii) assisting the Company in evaluating indications of interest and proposals regarding any Transaction(s), as defined below, from current and/or potential lenders, equity investors, and/or strategic partners; (iii) assisting the Company with the negotiation of any Transaction(s), including participating in negotiations with creditors and other parties involved in any Transaction(s); (iv) providing expert advice and testimony regarding financial matters related to any Transaction(s), if necessary; (v) attending meetings of the Company’s Board of Directors, creditor groups, official constituencies and other interested parties, as the Company and Houlihan Lokey mutually agree; and (vi) providing such other financial advisory and investment banking services as may be required by

additional issues and developments not anticipated on the Effective Date, as described in Section 8 of this Agreement.

2. **Exclusive Agency.** The Company agrees that neither it nor its management will initiate any discussions regarding a Transaction during the term of this Agreement, except with prior consultation with Houlihan Lokey. In the event the Company or its management receives any inquiry regarding a Transaction from any party, the Company shall promptly inform Houlihan Lokey of such inquiry so that Houlihan Lokey can assist the Company in evaluating such party and its interest in a Transaction and in any resulting negotiations.

3. **Fees.** In consideration of Houlihan Lokey's acceptance of this engagement, the Company shall pay the following:

- (i) *Initial Fee:* In addition to the other fees provided for herein, upon the execution of this Agreement, the Company shall pay Houlihan Lokey a nonrefundable cash fee of \$125,000, which shall be earned upon Houlihan Lokey's receipt thereof in consideration of Houlihan Lokey accepting this engagement ("Initial Fee");
- (ii) *Monthly Fees:* In addition to the other fees provided for herein, upon the first monthly anniversary of the Effective Date, and on every monthly anniversary of the Effective Date during the term of this Agreement, the Company shall pay Houlihan Lokey in advance, without notice or invoice, a nonrefundable cash fee of \$125,000 ("Monthly Fee"). Each Monthly Fee shall be earned upon Houlihan Lokey's receipt thereof in consideration of Houlihan Lokey accepting this engagement and performing services as described herein. Beginning with the sixth Monthly Fee, 50% of the Monthly Fees paid or previously paid on a timely basis to Houlihan Lokey shall be credited against any Restructuring Transaction Fee (as defined below) to which Houlihan Lokey becomes entitled hereunder (it being understood and agreed that no Monthly Fee shall be credited more than once), except that, in no event, shall such Restructuring Transaction Fee be reduced below zero. For the avoidance of doubt, the first through the fifth Monthly Fees shall not be credited against any Transaction Fee (as defined below); and
- (iii) *Transaction Fee(s):* In addition to the other fees provided for herein, the Company shall pay Houlihan Lokey the following transaction fee(s):
 - a. *Restructuring Transaction Fee.* Upon the earlier to occur of: (I) in the case of an out-of-court Restructuring Transaction (as defined below), the closing of such Restructuring Transaction; and (II) in the case of an in-court Restructuring Transaction, the date of confirmation of a plan of reorganization or liquidation under Chapter 11 or Chapter 7 of the Bankruptcy Code (as defined below) pursuant to an order of the applicable bankruptcy court, Houlihan Lokey shall earn, and the Company shall promptly pay to Houlihan Lokey, a cash fee ("Restructuring Transaction Fee") of \$2,500,000;
 - b. *Amendment Transaction Fee.* Upon the first closing of an Amendment Transaction that does not otherwise constitute a Restructuring Transaction (as defined below), Houlihan Lokey shall earn, and the Company shall promptly pay to Houlihan Lokey, a cash fee ("Amendment Transaction Fee") of \$1,000,000. 100% of any Amendment Transaction Fee previously paid on a timely basis to Houlihan Lokey shall be credited against any Restructuring Transaction Fee (as defined below) to which Houlihan Lokey becomes entitled hereunder (it being understood and agreed that no Amendment Transaction Fee shall be credited more than once and no Restructuring Transaction Fee shall be reduced by crediting from more than one Amendment Transaction Fee). Houlihan Lokey shall be paid

only one Amendment Transaction Fee during the term of this Agreement, unless otherwise agreed to in writing by the Company; and

- c. *Financing Transaction Fee.* Upon the closing of each Financing Transaction (as defined below), Houlihan Lokey shall earn, and the Company shall thereupon pay immediately and directly from the gross proceeds of such Financing Transaction, as a cost of such Financing Transaction, a cash fee (“Financing Transaction Fee”) equal to the sum of: (I) 0.75% of the aggregate principal amount of all amounts raised, placed, or committed in any Financing Transaction through a new revolving credit facility, (other than with respect to debtor-in-possession financing); (II) 2.0% of the aggregate principal amount of any other new non-common equity Securities raised, placed or committed in any Financing Transaction (other than a revolving credit facility, but including, for the avoidance of doubt, any additional amounts committed under the Note Purchase Agreement, amounts raised with respect to a debtor-in-possession financing, and Securities senior to but convertible into common equity); and (III) 4.0% of the gross proceeds of all common equity Securities placed or committed; provided, in the case of (III), that Houlihan Lokey is a co-agent, seller, or otherwise provides investment banking and advisory services directly related to the common equity Financing Transaction. It is understood and agreed that if the proceeds of any such Financing Transaction are to be funded in more than one stage, Houlihan Lokey shall be entitled to its applicable compensation hereunder upon the closing date of each stage. The Financing Transaction Fee(s) shall be payable in respect of any sale of securities whether such sale has been arranged by Houlihan Lokey, by another agent (or other issuer of the Securities (as defined below) in such Financing Transaction), or directly by the Company. Any non-cash consideration provided to or received in connection with the Financing Transaction (including but not limited to intellectual or intangible property) shall be valued for purposes of calculating the Financing Transaction Fee as equaling the number of Securities issued in exchange for such consideration multiplied by (in the case of debt securities) the face value of each such Security or (in the case of equity securities) the price per Security paid in the then current round of financing. The fees set forth herein shall be in addition to any other fees that the Company may be required to pay to any investor or other purchaser of Securities to secure its financing commitment.

Any Restructuring Transaction Fee, Amendment Transaction Fee and Financing Transaction Fee is each referred to herein as a “Transaction Fee” and are collectively referred to herein as “Transaction Fees.” All payments received by Houlihan Lokey pursuant to this Agreement at any time shall become the property of Houlihan Lokey without restriction. No payments received by Houlihan Lokey pursuant to this Agreement will be put into a trust or other segregated account.

4. **Term and Termination.** This Agreement may be terminated at any time by either party upon thirty days’ prior written notice of termination to the other party. The expiration or termination of this Agreement shall not affect (i) any provision of this Agreement other than Sections 1 through 3 and (ii) Houlihan Lokey's right to receive, and the Company's obligation to pay, any and all fees, expenses and other amounts due, whether or not any Transaction shall be consummated prior to or subsequent to the effective date of expiration or termination, as more fully set forth in this Agreement.

In addition, notwithstanding the expiration or termination of this Agreement (other than a termination by Houlihan Lokey), Houlihan Lokey shall be entitled to full payment by the Company of the Transaction Fees described in this Agreement: (i) so long as a Transaction is consummated during the term of this Agreement, or within 12 months after the date of expiration or termination of this Agreement (“Tail Period”), and/or (ii) if an agreement in principle to consummate a Transaction is executed by any entity comprising the Company during the term of this Agreement, or within the Tail Period, and such Transaction

is consummated at any time following such execution with the counterparty named in such agreement, or with any affiliate or employee of, or investor in, such counterparty, or any affiliate of any of the foregoing.

5. **Agreement from Secured Lenders.** Houlihan Lokey's obligations to provide the services described herein are contingent upon, and expressly subject to, the execution of a waiver, subordination or similar agreement, in form and substance satisfactory to Houlihan Lokey, pursuant to which the Company's senior secured lenders consent to the performance of the Company's obligations under this Agreement, including, without limitation, the Company's payment of Houlihan Lokey's fees and expenses described in Sections 3 and 11 hereof, free and clear of such lenders' security interests in the Company's assets.

6. **Transaction.** As used in this Agreement, the term "Transaction" shall mean any of the following:

- (i) *Restructuring Transaction.* Any transaction or series of transactions that constitute a recapitalization or restructuring of the equity and/or debt securities and/or other indebtedness, obligations or liabilities (including, without limitation, preferred stock, partnership interests, lease obligations, trade credit facilities, collective bargaining agreements and other contract or tort obligations) of any entity comprising the Company, including accrued and/or accreted interest thereon, which are outstanding as of the Effective Date, including, without limitation, interest bearing trade debt and the Company's existing Second Lien Note Purchase Agreement, dated as of January 5, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the Amendment Transaction (as defined below), the "Note Purchase Agreement"), among the Company, Superior Silica Sands LLC and certain of their subsidiaries as issuers, the noteholders from time to time party thereto and HPS Investment Partners, LLC as notes agent and collateral agent, which recapitalization or restructuring is effected pursuant to an exchange transaction, tender offer, a plan of reorganization or liquidation under the Bankruptcy Code, a solicitation of consents, waivers, acceptances or authorizations, any change of control transaction, any refinancing, sale, acquisition, merger, repurchase, exchange, conversion to equity, cancellation, forgiveness, retirement and/or a material modification or amendment to the terms, conditions, or covenants (including, without limitation, the principal balance, accrued or accreted interest, payment term, other debt service requirement and/or financial or operating covenant for a period lasting 9 months or longer) of any agreements or instruments governing any of the equity and/or debt securities and/or other indebtedness of any entity comprising the Company (other than an Amendment Transaction) or any combination of the foregoing transactions (each a "Restructuring Transaction");
- (ii) *Amendment Transaction.* Any transaction or series of related transactions that constitute amending, modifying, supplementing, deferring, waiving, or otherwise seeking relief from the terms, conditions, or covenants under all or a portion of the Company's existing Note Purchase Agreement for a period that (i) lasts at least six months, (ii) ends no earlier than June 30, 2019 and no later than December 31, 2019 and (iii) does not otherwise constitute a Restructuring Transaction (each an "Amendment Transaction"); and
- (iii) *Financing Transaction.* (a) Any transaction or series of related transactions that constitutes any refinancing of all or any portion of the existing obligations of any entity comprising the Company and/or (b) the placement, raising or issuance of any form of equity, equity-linked or debt securities (including, without limitation, any senior, subordinated, secured or unsecured indebtedness, or any convertible securities, preferred stock with warrants, or debt with warrants, preferred stock) or any loan or other financing, including any "debtor in possession financing" or "exit financing" in connection with a case under the Bankruptcy Code by any entity comprising the Company (any or all of which being "Securities"), from any source including, without limitation, any of the existing owners, shareholders, employees, or creditors

of any entity comprising the Company (whether or not such transaction is effectuated in-court, out-of-court, through the confirmation of a plan of reorganization or otherwise under the Bankruptcy Code, or whether the requisite consents to such transaction(s) are obtained in-court or out-of-court) (each a "Financing Transaction"). Notwithstanding the foregoing, Houlihan Lokey shall not be entitled to a Financing Transaction Fee on amounts raised, placed, or committed by any merger transaction counterparty.

7. **Characterization of Multiple and/or Complex Transactions.** In the event the Company and Houlihan Lokey are unable to agree in good faith upon the classification of any single Transaction as a Restructuring Transaction, Amendment Transaction or Financing Transaction, or if a single Transaction with only one third party shall consist of two, or more, of the foregoing types of Transactions, or elements thereof, Houlihan Lokey shall receive only one Transaction Fee in respect of such Transaction, which shall be equal to the greater of the Restructuring Transaction Fee, Amendment Transaction Fee or Financing Transaction Fee, as applicable, as calculated in accordance with the terms of this Agreement. For the avoidance of doubt, if two or more single Transactions occur simultaneously or at different times, whether or not they are connected with or related to one another, the Company shall, subject to any credits set forth in Section 3, pay Houlihan Lokey the Transaction Fee for each such Transaction in addition to, and not in lieu of, each other.

8. **Reasonableness of Fees.** The parties acknowledge that this engagement will require a substantial professional commitment of time and effort by Houlihan Lokey. Moreover, the amount of time and effort may vary substantially during different periods of the engagement. As a result, in order to ensure the availability of all necessary professional resources, whenever required, Houlihan Lokey may be foreclosed from pursuing other alternative engagement opportunities. In light of the foregoing, and given: (i) the numerous issues which can currently be anticipated in engagements such as this, (ii) Houlihan Lokey's commitment to the variable level of time and effort necessary to address such issues, (iii) the expertise and capabilities of Houlihan Lokey that will be required in this engagement, and (iv) the market rate for Houlihan Lokey's services of this nature, whether in-court or out-of-court, the parties agree that the fee arrangement provided for herein is reasonable, fairly compensates Houlihan Lokey, and provides the requisite certainty to the Company. The parties further agree and acknowledge that: (a) additional issues and developments, not currently anticipated, may arise and have an impact upon the services to be rendered by Houlihan Lokey hereunder, and may result in substantially more work and/or services being performed by Houlihan Lokey than is anticipated at this time; and (b) as a result of such unanticipated issues and/or developments, the results of Houlihan Lokey's services under this Agreement may also be substantially more beneficial than anticipated at this time. Accordingly, in the event of the occurrence of (a) and/or (b), in the prior sentence, each of the parties to this Agreement may, at the conclusion of the services rendered by Houlihan Lokey pursuant hereto, agree to a modification of the Transaction Fees described herein to more appropriately reflect the actual work performed, services rendered and/or any extraordinary results achieved by Houlihan Lokey pursuant to its engagement hereunder.

9. **Expenses.** In addition to all of the other fees and expenses described in this Agreement, and regardless of whether any Transaction is consummated, the Company shall, upon Houlihan Lokey's request, reimburse Houlihan Lokey for its reasonable out-of-pocket expenses incurred from time to time in connection with its services hereunder. Houlihan Lokey bills its clients for its reasonable out-of-pocket expenses including, but not limited to (i) travel-related and certain other expenses, without regard to volume-based or similar credits or rebates Houlihan Lokey may receive from, or fixed-fee arrangements made with, travel agents, airlines or other vendors, and (ii) research, database and similar information charges paid to third party vendors, and reprographics expenses, to perform client-related services that are not capable of being identified with, or charged to, a particular client or engagement in a reasonably practicable manner, based upon a uniformly applied monthly assessment or percentage of the fees due to Houlihan Lokey. Houlihan Lokey shall, in addition, be reimbursed by the Company for the reasonable and

reasonably documented fees and expenses of Houlihan Lokey's legal counsel incurred in connection with the negotiation and performance of this Agreement and the matters contemplated.

10. **Invoicing and Payment.** All amounts payable to Houlihan Lokey shall be made in lawful money of the United States in accordance with the payment instructions set forth on the invoice provided with this Agreement, or to such accounts as Houlihan Lokey shall direct, and the Company shall provide contemporaneous written notice of each such payment to Houlihan Lokey. All amounts invoiced by Houlihan Lokey shall be exclusive of value added tax, withholding tax, sales tax and any other similar taxes ("Taxes"). All amounts charged by Houlihan Lokey will be invoiced together with Taxes where appropriate.

11. **Information.** The Company will provide Houlihan Lokey with access to management and other representatives of the Company and other participants in any Transaction, as reasonably requested by Houlihan Lokey. The Company will furnish Houlihan Lokey with such information as Houlihan Lokey may reasonably request for the purpose of carrying out its engagement hereunder, all of which will be, to the Company's best knowledge, accurate and complete at the time furnished. In addition, with respect to financial forecasts and projections that may be furnished to or discussed with Houlihan Lokey by the Company or any other entity, Houlihan Lokey will be entitled to assume that such financial forecasts and projections have been or will be reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of the Company's or such other entity's management, as the case may be, as to the matters covered thereby. The Company will promptly notify Houlihan Lokey in writing of any material inaccuracy or misstatement in, or material omission from, any information previously delivered to, or discussed with, Houlihan Lokey, or any materials provided to any interested party. Houlihan Lokey shall rely, without independent verification, on the accuracy and completeness of all information that is publicly available and of all information furnished by or on behalf of the Company or any other potential party to any Transaction or otherwise reviewed by, or discussed with, Houlihan Lokey. The Company understands and agrees that Houlihan Lokey will not be responsible for the accuracy or completeness of such information, and shall not be liable for any inaccuracies or omissions therein. The Company acknowledges that Houlihan Lokey has no obligation to conduct any appraisal of any assets or liabilities of the Company or any other party or to evaluate the solvency of any party under any applicable laws relating to bankruptcy, insolvency or similar matters. Houlihan Lokey's role in reviewing any information is limited solely to performing such a review as it shall deem necessary to support its own advice and analysis and shall not be on behalf of any other party. Any advice (whether written or oral) rendered by Houlihan Lokey pursuant to this Agreement is intended solely for the use of the Board of Directors of the Company (solely in its capacity as such) in evaluating a Transaction, and such advice may not be relied upon by any other person or entity or used for any other purpose. Any advice rendered by, or other materials prepared by, or any communication from, Houlihan Lokey may not be disclosed, in whole or in part, to any third party, or summarized, quoted from, or otherwise referred to in any manner without the prior written consent of Houlihan Lokey. In addition, neither Houlihan Lokey nor the terms of this Agreement may otherwise be referred to without our prior written consent.

12. **Additional Provisions Regarding Financing Transaction.** The Company authorizes Houlihan Lokey to provide marketing materials (or similar document) (as such document may be amended or supplemented and including any information incorporated therein by reference, the "Marketing Materials") and other pertinent information to prospective investors and other purchasers and agrees not to transmit the Marketing Materials to prospective investors or other purchasers without Houlihan Lokey's prior approval. The Company will be solely responsible for the contents of the Marketing Materials and any and all other written or oral communications provided by or on behalf of the Company to any actual or prospective investor or other purchaser. The Company represents and warrants that the Marketing Materials and such other communications will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. If an event occurs as a result of which the

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Marketing Materials (as then supplemented or amended) would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, the Company will promptly notify Houlihan Lokey of such event and Houlihan Lokey will suspend solicitations of prospective investors and other purchasers until such time as the Company prepares (and the Company agrees that, if the solicitation of prospective investors and other purchasers has been so suspended after the Company has accepted orders from prospective investors or other purchasers, the Company will promptly prepare) a supplement or amendment to the Marketing Materials which corrects such statement(s) or omission(s). The Company will (i) make available to each bona fide offeree of the Securities such information (in addition to that contained in the Marketing Materials) concerning the offering of the Securities, the Company and any other relevant matters, and (ii) provide each bona fide offeree the opportunity to ask questions of, and receive answers from, the officers and employees of the Company concerning the terms and conditions of the offering of the Securities.

The Company acknowledges that closing of a Financing Transaction is subject, among other factors, to acceptable documentation, market conditions, and satisfaction of the conditions set forth in one or more agreements to be entered into with any financier, lender, investor or other purchaser of Securities. It is expressly understood that this engagement does not constitute any commitment, express or implied, on the part of Houlihan Lokey to acquire, and does not ensure the successful placement of, any portion of the Securities. The Company further acknowledges and agrees that Houlihan Lokey is not acting as an underwriter of the Securities and shall have no responsibility or obligation to underwrite the Securities.

In connection with all offers and sales of the Securities, the Company will cause to be addressed and delivered to Houlihan Lokey a written opinion of Company counsel acceptable to Houlihan Lokey containing (i) an opinion to the effect that the placement of Securities was exempt from registration under the Securities Act of 1933, as amended (the "Act"), and (ii) any other opinions of counsel that have been provided to investors or other purchasers of the Securities or which Houlihan Lokey may reasonably request. The Company also will cause to be furnished to Houlihan Lokey at or after each closing of a sale of Securities copies (addressed to Houlihan Lokey, if requested and as appropriate) of such agreements, opinions, certificates and other documents (including, without limitation, accountant's letters) as Houlihan Lokey may reasonably request. The Company hereby acknowledges and agrees that Houlihan Lokey shall be entitled to rely upon the representations and warranties made (whether pursuant to a subscription agreement or in any other format) to investors or other purchasers of Securities and the Company shall be deemed to have made such representations and warranties to and for the benefit of Houlihan Lokey.

It is understood that the offer and sale of the Securities in a Financing Transaction will be exempt from the registration requirements of the Act, pursuant to Section 4(a)(2) thereof. The Company has not taken, and will not take, any action, directly or indirectly, so as to cause the transactions contemplated by this Agreement to fail to be entitled to exemption under Section 4(a)(2) of the Act. The Company will promptly from time to time take such reasonable action as necessary to qualify the Securities as a private placement under the securities laws of such States and foreign jurisdictions as any prospective investor or other purchaser may reasonably request and will comply with applicable laws. The Company shall cause the issuer of the Securities to offer and sell the Securities only to investors and other purchasers of the Securities that they reasonably believe to be "accredited investors", as defined in Rule 501 of Regulation D under the Act. The Company will cause the issuer of the Securities to file in a timely manner with the Securities and Exchange Commission (the "SEC") and/or each other regulatory authority any notices or other filings with respect to the Securities required by Rule 503 of Regulation D under the Act and/or other applicable law or regulation and will upon request furnish to Houlihan Lokey a signed copy of each such notice or filing promptly after its submission.

The Company represents and warrants that it has filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the

Securities Exchange Act of 1934, as amended (“1934 Act”) (all of the foregoing filed prior to the Effective Date and all exhibits included therein and financial statements, notes and schedules thereto and documents incorporated by reference therein being hereinafter referred to as the “SEC Documents”). As of their respective dates, all SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto.

13. **Limitations on Services as Advisor.** Houlihan Lokey's services are limited to those specifically provided in this Agreement, or subsequently agreed upon in writing, by the parties hereto. Houlihan Lokey shall have no obligation or responsibility for any other services including, without limitation, any crisis management or business consulting services related to, among other things, the implementation of any operational, organizational, administrative, cash management, or similar activities. The parties understand that Houlihan Lokey is being engaged hereunder as an independent contractor to provide the services hereunder solely to the Company, and that Houlihan Lokey is not acting as an agent or fiduciary of the Company, its security holders or creditors or any other person or entity in connection with this engagement, and the Company agrees that it shall not make, and hereby waives, any claim based on an assertion of such an agency or fiduciary relationship. In performing its services pursuant to this Agreement, Houlihan Lokey is not assuming any responsibility for the Company's decision on whether to pursue, endorse or support any business strategy, or to effect, or not to effect, any Transaction(s), which decision shall be made by the Company in its sole discretion. Any duties of Houlihan Lokey arising by reason of this Agreement or as a result of the services to be rendered by Houlihan Lokey hereunder will be owed solely to the Company.

14. **Bankruptcy Court Approval.** In the event that the Company is or becomes a debtor under Chapter 11 of the Bankruptcy Code, whether voluntarily or involuntarily, the Company shall seek an order authorizing the employment of Houlihan Lokey pursuant to the terms of this Agreement, as a professional person pursuant to, and subject to the standard of review of, Section 328(a) of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and applicable local rules and orders and not subject to any other standard of review under Section 330 of the Bankruptcy Code. In so agreeing to seek Houlihan Lokey's retention under Section 328(a) of the Bankruptcy Code, the Company acknowledges that it believes that Houlihan Lokey's general restructuring experience and expertise, its knowledge of the capital markets and its merger and acquisition capabilities will inure to the benefit of the Company in pursuing any Transaction, that the value to the Company of Houlihan Lokey's services derives in substantial part from that expertise and experience and that, accordingly, the structure and amount of the contingent Transaction Fee(s) is reasonable regardless of the number of hours to be expended by Houlihan Lokey's professionals in the performance of the services to be provided hereunder. The Company shall submit Houlihan Lokey's employment application as soon as practicable following the Company's filing of a voluntary Chapter 11 case, or the entry of an order for relief in any involuntary case filed against the Company, and use its best efforts to cause such application to be considered on the most expedited basis. The employment application and the proposed order authorizing employment of Houlihan Lokey shall be provided to Houlihan Lokey as much in advance of any Chapter 11 filing as is practicable, and must be acceptable to Houlihan Lokey in its sole discretion. Following entry of the order authorizing the employment of Houlihan Lokey, the Company shall pay all fees and expenses due pursuant to this Agreement, as approved by the court having jurisdiction of the bankruptcy case involving the Company (the “Bankruptcy Court”), as promptly as possible in accordance with the terms of this Agreement and the order of such Bankruptcy Court, the Bankruptcy Code, the Bankruptcy Rules and applicable local rules and orders, and will work with Houlihan Lokey to promptly file any and all necessary applications regarding such fees and expenses with the Bankruptcy Court. Houlihan Lokey shall have no obligation to provide

services under this Agreement in the event that the Company becomes a debtor under the Bankruptcy Code unless Houlihan Lokey's retention under this Agreement is approved under Section 328(a) of the Bankruptcy Code by final order of the Bankruptcy Court no longer subject to appeal, rehearing, reconsideration or petition for certiorari, and which is acceptable to Houlihan Lokey in all respects. If the order authorizing the employment of Houlihan Lokey is not obtained, or is later reversed or set aside for any reason, Houlihan Lokey may terminate this Agreement, and the Company shall reimburse Houlihan Lokey for all fees and expenses reasonably incurred prior to the date of expiration or termination, subject to the requirements of the Bankruptcy Code, Bankruptcy Rules and applicable local rules and orders. Prior to commencing a Chapter 11 case, the Company shall pay all amounts due and payable to Houlihan Lokey in cash. The terms of this Section are solely for the benefit of Houlihan Lokey, and may be waived, in whole or in part, only by Houlihan Lokey.

15. **Additional Services.** To the extent Houlihan Lokey is requested by the Company to perform any financial advisory or investment banking services which are not within the scope of this engagement, the Company shall pay Houlihan Lokey such fees as shall be mutually agreed upon by the parties hereto in writing, in advance, depending on the level and type of services required, and shall be in addition to the fees and expenses described hereinabove.

In addition, if, during the term of this Agreement or within six (6) months after termination or expiration of this Agreement, the Company and/or any of its subsidiaries or affiliates intends to effect any financing transaction by way of either a broadly syndicated term loan (an "Institutional Term Loan") or as a high yield bond or other debt security offered in a Rule 144A, Regulation S Offering, or other registered offering (a "144A Offering" and together with an Institutional Term Loan, a "Syndicated Financing"), then the Company shall (i) in the case of any Institutional Term Loan, offer Houlihan Lokey (or one of its affiliates) the right to act as arranger in such transaction with a role no less than Joint Lead Arranger, or (ii) in the case of any 144A Offering, offer Houlihan Lokey the right to act as initial purchaser (or, as the case may be, underwriter) in such transaction with a role no less than Joint Bookrunner, in each case with economics of not less than 25% of the total compensation paid and payable to, as the case may be, the arrangers, initial purchasers, or underwriters in such transaction. In addition, if, during the term of this Agreement or within six (6) months after termination or expiration of this Agreement, and only if the Company elects to engage a financial advisor to provide a fairness opinion in connection with a possible merger, consolidation, business combination, acquisition, sale, distribution or transfer of assets or equity interests of the Company or EmERGE Energy Services GP LLC (and/or any of their respective subsidiaries) in one or more transactions, the Company shall offer Houlihan Lokey the right to act as financial advisor in connection with providing such fairness opinion(s) related to such transactions described in this sentence. If Houlihan Lokey agrees to act in either of the capacities described in the two immediately preceding sentences, the Company and Houlihan Lokey will enter into an appropriate form of agreement relating to the type of transaction involved and containing customary terms and conditions, including fees customarily payable to nationally recognized investment banks performing such roles in connection with comparable transactions. The Company acknowledges that this Agreement is neither an express nor an implied commitment by Houlihan Lokey to act in any such capacity, which commitment shall only be set forth in a separate agreement.

16. **Required Services.** If Houlihan Lokey is required to render services not described herein, but which relate directly or indirectly to the subject matter of this Agreement (including, but not limited to, producing documents, answering interrogatories, attending depositions, giving expert or other testimony, whether by subpoena, court process or order, or otherwise), the Company shall pay Houlihan Lokey additional fees to be mutually agreed upon for such services, plus reasonable and reasonably documented related out-of-pocket costs and expenses, including, among other things, the reasonable and reasonably documented legal fees and expenses of Houlihan Lokey's counsel in connection therewith.

17. **Credit.** After the announcement or closing of any Transaction, Houlihan Lokey may, at its own expense, place announcements on its corporate website and in financial and other newspapers and periodicals (such as a customary "tombstone" advertisement, including the Company's logo or other identifying marks) describing its services in connection therewith. The content of any such announcement shall be subject to the Company's prior approval, which approval shall not be unreasonably withheld. Furthermore, if requested by Houlihan Lokey, the Company agrees that in any press release announcing any Transaction, the Company will include in such press release a mutually acceptable reference to Houlihan Lokey's role as financial advisor to the Company with respect to such Transaction.

18. **Choice of Law; Jury Trial Waiver; Jurisdiction.** THIS AGREEMENT SHALL BE DEEMED TO BE MADE IN NEW YORK. THIS AGREEMENT AND ALL DISPUTES ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. EACH OF HOULIHAN LOKEY AND THE COMPANY (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS EQUITY HOLDERS) IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) RELATED TO OR ARISING OUT OF THE ENGAGEMENT OF HOULIHAN LOKEY PURSUANT TO, OR THE PERFORMANCE BY HOULIHAN LOKEY OF THE SERVICES CONTEMPLATED BY, THIS AGREEMENT. REGARDLESS OF ANY PRESENT OR FUTURE DOMICILE OR PRINCIPAL PLACE OF BUSINESS OF THE PARTIES HERETO, EACH PARTY HEREBY IRREVOCABLY CONSENTS AND AGREES THAT ANY CLAIMS OR DISPUTES BETWEEN OR AMONG THE PARTIES HERETO ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) SHALL BE BROUGHT AND MAINTAINED IN ANY FEDERAL OR STATE COURT OF COMPETENT JURISDICTION SITTING IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, WHICH COURTS SHALL HAVE EXCLUSIVE JURISDICTION OVER THE ADJUDICATION OF SUCH MATTERS, AND AGREES TO VENUE IN SUCH COURTS; PROVIDED THAT SUCH CONSENT AND AGREEMENT SHALL NOT BE DEEMED TO REQUIRE ANY BANKRUPTCY CASE INVOLVING THE COMPANY TO BE FILED IN SUCH COURTS, AND IF THE COMPANY BECOMES A DEBTOR UNDER CHAPTER 11 OF THE BANKRUPTCY CODE, DURING ANY SUCH CASE, ANY CLAIMS MAY ALSO BE HEARD AND DETERMINED BEFORE THE BANKRUPTCY COURT. EACH PARTY FURTHER IRREVOCABLY SUBMITS AND CONSENTS IN ADVANCE EXCLUSIVELY TO SUCH JURISDICTION AND VENUE IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURTS, AND HEREBY WAIVES IN ALL RESPECTS ANY CLAIM OR OBJECTION WHICH IT MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS. THE COMPANY AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, SUIT OR CLAIM BROUGHT IN ANY OF THE COURTS REFERRED TO ABOVE SHALL BE CONCLUSIVE AND BINDING UPON IT AND MAY BE ENFORCED IN ANY OTHER COURTS HAVING JURISDICTION OVER IT BY SUIT UPON SUCH JUDGMENT. THE COMPANY IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN ALL SUCH DISPUTES BY THE MAILING OF COPIES OF SUCH PROCESS TO THE COMPANY AT 6000 WESTERN PLACE, SUITE 465 FORT WORTH, TX 76107.

19. **Indemnification and Standard of Care.** As a material part of the consideration for the agreement of Houlihan Lokey to furnish its services under this Agreement, the Company agrees (i) to indemnify and hold harmless Houlihan Lokey and its affiliates, and their respective past, present and future directors, officers, partners, members, employees, agents, representatives, advisors, subcontractors and controlling persons (collectively, the "Indemnified Parties"), to the fullest extent lawful, from and against any and all

losses, claims, damages or liabilities (or actions in respect thereof), joint or several, arising out of or related to Houlihan Lokey's engagement under, or any matter referred to in, this Agreement, and (ii) to reimburse each Indemnified Party for all reasonable and reasonably documented expenses (including, without limitation, the reasonable and reasonably documented fees and expenses of counsel) as they are incurred in connection with investigating, preparing, pursuing, defending, settling, compromising or otherwise becoming involved in any action, suit, dispute, inquiry, investigation or proceeding, pending or threatened, brought by or against any person or entity (including, without limitation, any shareholder or derivative action or any claim to enforce this Agreement), arising out of or related to such engagement or matter. However, the Company shall not be liable under the foregoing indemnification provision for any loss, claim, damage or liability which is finally judicially determined by a court of competent jurisdiction to have resulted primarily from the willful misconduct or gross negligence of such Indemnified Party.

If for any reason the foregoing indemnification or reimbursement is unavailable to any Indemnified Party or insufficient fully to indemnify any Indemnified Party or to hold it harmless, then the Company shall contribute to the amount paid or payable by such Indemnified Party as a result of the losses, claims, damages, liabilities or expenses referred to in subsections (i) or (ii) of such indemnification or reimbursement provisions in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and Houlihan Lokey, on the other hand, in connection with the matters contemplated by this Agreement. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then the Company 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 (and its affiliates, and their respective directors, employees, agents and other advisors), on the one hand, and such Indemnified Party, on the other hand, in connection therewith, as well as any other relevant equitable considerations. Notwithstanding the foregoing, in no event shall the Indemnified Parties be required to contribute an aggregate amount in excess of the amount of fees actually received by Houlihan Lokey from the Company pursuant to this Agreement. Relative benefits received by the Company, on the one hand, and Houlihan Lokey, on the other hand, shall be deemed to be in the same proportion as (i) the total value paid or received or contemplated to be paid or received by the Company, and its security holders, creditors, and other affiliates, as the case may be, pursuant to the transaction(s) (whether or not consummated) contemplated by the engagement hereunder, bears to (ii) the fees received by Houlihan Lokey under this Agreement. The Company shall not settle, compromise or consent to the entry of any judgment in or otherwise seek to terminate any pending or threatened action, suit, dispute, inquiry, investigation or proceeding arising out of or related to Houlihan Lokey's engagement under, or any matter referred to in, this Agreement (whether or not an Indemnified Party is an actual or potential party thereto), or participate in or otherwise facilitate any such settlement, compromise, consent or termination by or on behalf of any person or entity, unless such settlement, compromise, consent or termination contains a release of the Indemnified Parties reasonably satisfactory in form and substance to Houlihan Lokey.

The Company further agrees that neither Houlihan Lokey nor any other Indemnified Party shall have any liability (whether direct or indirect and regardless of the legal theory advanced) to the Company or any person or entity asserting claims on behalf of or in right of the Company arising out of or related to Houlihan Lokey's engagement under, or any matter referred to in, this Agreement, except for losses, claims, damages or liabilities incurred by the Company which are finally judicially determined by a court of competent jurisdiction to have resulted primarily from the willful misconduct or gross negligence of such Indemnified Party.

The Company shall cause any new company or entity that may be formed by the Company, for any purpose, to agree to all of the obligations in this Section to Houlihan Lokey in accordance with the foregoing provisions. Prior to entering into any agreement or arrangement with respect to, or effecting, any (i) merger, statutory exchange or other business combination or proposed sale, exchange, dividend or other distribution or liquidation of all or a significant portion of its assets, or (ii) significant recapitalization or reclassification

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of its outstanding securities that does not directly or indirectly provide for the assumption of the obligations of the Company set forth in this Agreement, the Company will notify Houlihan Lokey in writing thereof (if not previously so notified) and, if requested by Houlihan Lokey, shall arrange in connection therewith alternative means of providing for the obligations of the Company set forth in this Agreement, including the assumption of such obligations by another party, insurance, surety bonds, the creation of an escrow, or other credit support arrangements, in each case in an amount and upon terms and conditions satisfactory to Houlihan Lokey.

The indemnity, reimbursement, and other obligations and agreements of the Company set forth herein (i) shall apply to any services provided by Houlihan Lokey in connection with this engagement prior to the Effective Date and to any modifications of this Agreement, (ii) shall be in addition to any obligation or liability which the Company may otherwise have to any Indemnified Party, and (iii) shall survive the completion of the services described in, and any expiration or termination of the relationship established by, this Agreement. The Company agrees that Houlihan Lokey would be irreparably injured by any breach of any such obligations or agreements, that money damages alone would not be an adequate remedy for any such breach and that, in the event of any such breach, Houlihan Lokey shall be entitled, in addition to any other remedies, to injunctive relief and specific performance.

20. **Miscellaneous.** This Agreement shall be binding upon the parties hereto and their respective successors, heirs and assigns and any successor, heir or assign of any substantial portion of such parties' respective businesses and/or assets, including any Chapter 11 or Chapter 7 trustee appointed on behalf of the Company.

Nothing in this Agreement, express or implied, is intended to confer or does confer on any person or entity, other than the parties hereto, the Indemnified Parties and each of their respective successors, heirs and assigns, any rights or remedies (directly or indirectly as a third party beneficiary or otherwise) under or by reason of this Agreement or as a result of the services to be rendered by Houlihan Lokey hereunder.

This Agreement is the complete and exclusive statement of the entire understanding of the parties regarding the subject matter hereof, and supersedes all previous agreements or understandings regarding the same, whether written or oral, including the Capital Markets Agreement. This Agreement may not be amended, and no portion hereof may be waived, except in a writing duly executed by the parties hereto.

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect pursuant to the terms hereof.

To help the United States government fight the funding of terrorism and money laundering activities, the federal law of the United States requires all financial institutions to obtain, verify and record information that identifies each person with whom they do business as a condition to doing business with that person. Accordingly, the Company will provide Houlihan Lokey upon request (i) certain information regarding the identities of all individuals who, directly or indirectly, own 25% or more of the Company's equity interests as well as the Company's executive officers, and (ii) certain identifying information necessary to verify the Company's identity, such as a government-issued identification number (e.g., a U.S. taxpayer identification number), certified articles of incorporation, a government-issued business license, partnership agreement, or trust instrument. By executing this Agreement, the Company confirms that all such information provided to Houlihan Lokey is accurate and complete.

This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument. Such counterparts may be delivered by one party to the other by facsimile or other electronic transmission, and such counterparts shall be valid for all purposes.

The Company has all requisite power and authority to enter into this Agreement. This Agreement has been duly and validly authorized by all necessary action on the part of the Company and has been duly executed and delivered by the Company and constitutes a legal, valid and binding agreement of the Company, enforceable in accordance with its terms. This Agreement has been reviewed by the signatories hereto and their counsel. There shall be no construction of any provision against Houlihan Lokey because this Agreement was drafted by Houlihan Lokey, and the parties waive any statute or rule of law to such effect.

The Company agrees that it will be solely responsible for ensuring that any Transaction complies with applicable law. The Company understands that Houlihan Lokey is not undertaking to provide any legal, regulatory, accounting, insurance, tax or other similar professional advice and the Company confirms that it is relying on its own counsel, accountants and similar advisors for such advice.

To the extent that the Company hereunder is comprised of more than one entity or company, the obligations of the Company under this Agreement are joint and several, and any consent, direction, approval, demand, notice or the like given by any one of such entities or companies shall be deemed given by all of them and, as such, shall be binding on the Company.

The Company understands and acknowledges that Houlihan Lokey and its affiliates (collectively, the "Houlihan Lokey Group") engage in providing investment banking, securities trading, financing, financial advisory, and consulting services and other commercial and investment banking products and services to a wide range of institutions and individuals. In the ordinary course of business, the Houlihan Lokey Group and certain of its employees, as well as investment funds in which they may have financial interests or with which they may co-invest, may acquire, hold or sell, long or short positions, or trade or otherwise effect transactions, in debt, equity, and other securities and financial instruments (including bank loans and other obligations) of, or investments in, the Company or any other party that may be involved in the matters contemplated by this Agreement or have other relationships with such parties. With respect to any such securities, financial instruments and/or investments, all rights in respect of such securities, financial instruments and investments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion. In addition, the Houlihan Lokey Group may in the past have had, and may currently or in the future have, financial advisory or other investment banking or consulting relationships with parties involved in the matters contemplated by this Agreement, including parties that may have interests with respect to the Company, a Transaction or other parties involved in a Transaction, from which conflicting interests or duties may arise. Although the Houlihan Lokey Group in the course of such other activities and relationships or otherwise may have acquired, or may in the future acquire, information about the Company, a Transaction or such other parties, or that otherwise may be of interest to the Company, the Houlihan Lokey Group shall have no obligation to, and may not be contractually permitted to, disclose such information, or the fact that the Houlihan Lokey Group is in possession of such information, to the Company or to use such information on the Company's behalf.

In order to enable Houlihan Lokey to bring relevant resources to bear on its engagement hereunder from among its global affiliates, the Company agrees that Houlihan Lokey may share information obtained from the Company and other parties hereunder with other members of the Houlihan Lokey Group, and may perform the services contemplated hereby in conjunction with such other members, each of whom shall be subject to Houlihan Lokey's obligations under this Agreement and the Confidentiality Agreement dated December 21, 2016 between the parties hereto.

The Company acknowledges that Houlihan Lokey and/or its affiliates have in the past provided certain investment banking and financial advisory services to Insight Equity and/or its portfolio companies (collectively, "Insight Equity"), and the Company (on its own behalf and, to the extent permitted by applicable law, on behalf of its security holders) knowingly and voluntarily (a) waives and releases, to the

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fullest extent permitted by law, any claims it may have against the Houlihan Lokey Group arising out of, resulting from or based upon such services, and (b) waives any actual or potential conflicts of interest which may result from Houlihan Lokey's and/or such affiliates' multiple roles as an advisor to Insight Equity and a financial advisor and/or placement agent to the Company pursuant to this Agreement. In addition, the Company acknowledges that an affiliate of Houlihan Lokey has a business relationship with HPS Investment Partners, LLC and certain of its affiliates (collectively "HPS"), and the Company (on its own behalf and, to the extent permitted by applicable law, on behalf of its security holders) knowingly and voluntarily waives any actual or potential conflicts of interest which may result from such affiliate's business relationship with HPS and Houlihan Lokey's role as financial advisor and/or placement agent to the Company pursuant to this Agreement.

If the foregoing correctly sets forth our agreement, please sign and return to us a copy of this Agreement along with a check (or wire transfer confirmation) for \$125,000 on account of the Initial Fee.

All of us at Houlihan Lokey thank you for choosing us to advise the Company, and look forward to working with you on this engagement.

Very truly yours,

HOULIHAN LOKEY CAPITAL, INC.

By: 

Adam Dunayer
Managing Director

Accepted and agreed to as of the Effective Date:

EMERGE ENERGY SERVICES LP, on its own behalf, and on behalf of its direct and indirect subsidiaries

By: EMERGE ENERGY SERVICES GP LLC, its general partner

By: 

Deborah Deibert
Chief Financial Officer

Personal and Confidential

December 31, 2018

Emerge Energy Services LP
6000 Western Place, Suite 465
Fort Worth, TX 76107
Attn: Deborah Deibert, Chief Financial Officer

Initial fee

\$125,000.00

PAYMENT DUE UPON RECEIPT

Please Send Checks To:

Houlihan Lokey Capital, Inc.
Accounts Receivable Department
10250 Constellation Blvd., 5th Floor
Los Angeles, California 90067

Wire Transfer Instructions:

Bank of America
Wire Transfer ABA #026009593
ACH ABA #121000358
fbo Houlihan Lokey Capital, Inc.
Account #1453120593
Swift Code (International Wires Only): BOFAUS3N