

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

Form 10-Q

(Mark One)

- QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934. For the quarterly period ended March 31, 2022
- or
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934. For the transition period from to

Commission file number 0-21513

DXP Enterprises, Inc.

(Exact name of registrant as specified in its charter)

Texas

76-0509661

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification Number)

5301 Hollister, Houston, Texas 77040

(Address of principal executive offices, including zip code)

(713) 996-4700

(Registrant's telephone number, including area code)

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

<u>Title of Each Class</u>	<u>Trading Symbol</u>	<u>Name of Exchange on which Registered</u>
Common Stock par value \$0.01	DXPE	NASDAQ Global Select Market

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

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

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

Large accelerated filer [] Accelerated filer [X] Non-accelerated filer [] Smaller reporting company [] Emerging growth company []

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

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

Number of shares of registrant's Common Stock outstanding as of April 30, 2022: 18,642,621 par value \$0.01 per share.

DXP ENTERPRISES, INC. AND SUBSIDIARIES
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PART I: FINANCIAL INFORMATION

ITEM 1: FINANCIAL STATEMENTS

DXP ENTERPRISES, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME
(in thousands, except per share amounts) (unaudited)

	Three Months Ended March 31,	
	2022	2021
Sales	\$ 319,411	\$ 245,587
Cost of sales	224,527	173,957
Gross profit	94,884	71,630
Selling, general and administrative expenses	73,325	65,397
Income from operations	21,559	6,233
Other (income) expense	536	(430)
Interest expense	5,162	5,243
Income before income taxes	15,861	1,420
Provision for income taxes	3,332	1,261
Net income	12,529	159
Net loss attributable to noncontrolling interest	(113)	(212)
Net income attributable to DXP Enterprises, Inc.	12,642	371
Preferred stock dividend	23	23
Net income attributable to common shareholders	\$ 12,619	\$ 348
Net income	\$ 12,529	\$ 159
Currency translation adjustments	1,669	1,491
Comprehensive income	\$ 14,198	\$ 1,650
Earnings per share (Note 10) :		
Basic	\$ 0.68	\$ 0.02
Diluted	\$ 0.65	\$ 0.02
Weighted average common shares outstanding :		
Basic	18,534	19,186
Diluted	19,374	20,026

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

DXP ENTERPRISES, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data) (unaudited)

	<u>March 31, 2022</u>	<u>December 31, 2021</u>
ASSETS		
<i>Current assets:</i>		
Cash	\$ 36,559	\$ 48,989
Restricted cash	91	91
Accounts Receivable, net of allowance of \$7,176 and \$7,759	228,213	218,137
Inventories	111,862	100,894
Costs and estimated profits in excess of billings	20,504	17,193
Prepaid expenses and other current assets	14,317	9,522
Federal income taxes receivable	1,019	9,748
Total current assets	412,565	404,574
Property and equipment, net	50,269	51,880
Goodwill	301,563	296,541
Other intangible assets, net	77,005	79,205
Operating lease ROU assets	56,267	57,221
Other long-term assets	4,646	4,806
Total assets	\$ 902,315	\$ 894,227
LIABILITIES AND EQUITY		
<i>Current liabilities:</i>		
Current maturities of long-term debt	\$ 3,300	\$ 3,300
Trade accounts payable	81,450	77,842
Accrued wages and benefits	23,515	23,006
Customer advances	13,498	12,924
Billings in excess of costs and estimated profits	5,328	3,581
Federal income taxes payable	104	—
Short-term operating lease liabilities	18,093	18,203
Other current liabilities	32,692	42,206
Total current liabilities	177,980	181,062
Long-term debt, net of unamortized debt issuance costs	315,030	315,397
Long-term operating lease liabilities	39,045	39,922
Other long-term liabilities	2,206	3,603
Deferred income taxes	7,927	7,516
Total long-term liabilities	364,208	366,438
Total liabilities	542,188	547,500
Commitments and contingencies (Note 11)		
<i>Shareholders' equity:</i>		
Series A and B preferred stock, \$1.00 par value each; 1,000,000 shares authorized each	16	16
Common stock, \$0.01 par value, 100,000,000 shares authorized; 18,633,271 and 18,580,364 outstanding	195	195
Additional paid-in capital	207,510	206,772
Retained earnings	215,103	202,484
Accumulated other comprehensive loss	(27,613)	(29,282)
Treasury stock, at cost 1,243,535 shares at March 31, 2022	(35,024)	(33,511)
Total DXP Enterprises, Inc. equity	360,187	346,674
Noncontrolling interest	(60)	53
Total equity	360,127	346,727
Total liabilities and equity	\$ 902,315	\$ 894,227

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

DXP ENTERPRISES, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands) (unaudited)

	Three Months Ended March 31,	
	2022	2021
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	12,529	159
Reconciliation of net income to net cash provided (used in) by operating activities:		
Depreciation	2,517	2,480
Amortization of intangible assets	4,235	4,146
Gain on sale of property and equipment	—	(246)
Provision for credit losses	(147)	(682)
Fair value adjustment on contingent consideration	531	—
Amortization of debt issuance costs	458	427
Restricted stock compensation expense	370	380
Deferred income taxes	411	580
Net change in operating assets and liabilities	(18,224)	1,333
Net cash provided by operating activities	\$ 2,680	\$ 8,577
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of property and equipment	(740)	(680)
Proceeds from the sale of property and equipment	—	1,297
Acquisition of business, net of cash acquired	(5,316)	—
Net cash (used in) provided by investing activities	\$ (6,056)	\$ 617
CASH FLOWS FROM FINANCING ACTIVITIES:		
Principal debt payments	(825)	(825)
Preferred Stock dividends paid	(23)	(23)
Purchase of treasury stock	(8,315)	—
Payment for employee taxes withheld from stock awards	(159)	(517)
Net cash used in financing activities	\$ (9,322)	\$ (1,365)
Effect of foreign currency on cash	268	204
Net change in cash and restricted cash	(12,430)	8,033
Cash and restricted cash at beginning of period	49,080	119,419
Cash and restricted cash at end of period	\$ 36,650	\$ 127,452
Supplemental schedule of non-cash investing and financing activities:		
Shares issued for acquisitions (Note 13)	\$ 527	\$ —

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

DXP ENTERPRISES, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF EQUITY
(in thousands) (unaudited)

	<u>Series A</u> <u>preferred</u> <u>stock</u>	<u>Series B</u> <u>preferred</u> <u>stock</u>	<u>Common</u> <u>stock</u>	<u>Paid-in</u> <u>capital</u>	<u>Retained</u> <u>earnings</u>	<u>Treasury</u> <u>stock</u>	<u>Non</u> <u>controlling</u> <u>interest</u>	<u>Accum other</u> <u>comp loss</u>	<u>Total equity</u>
Balance at December 31, 2020	\$ 1	\$ 15	\$ 189	\$ 192,068	\$ 186,078	\$ —	\$ 798	\$ (30,029)	\$ 349,120
Preferred dividends paid	—	—	—	—	(23)	—	—	—	(23)
Restricted stock compensation expense	—	—	—	380	—	—	—	—	380
Tax related items for share based awards	—	—	—	(517)	—	—	—	—	(517)
Currency translation adjustment	—	—	—	—	—	—	—	1,491	1,491
Net income	—	—	—	—	371	—	(212)	—	159
Balance at March 31, 2021	<u>\$ 1</u>	<u>\$ 15</u>	<u>\$ 189</u>	<u>\$ 191,931</u>	<u>\$ 186,426</u>	<u>\$ —</u>	<u>\$ 586</u>	<u>\$ (28,538)</u>	<u>\$ 350,610</u>

	<u>Series A</u> <u>preferred</u> <u>stock</u>	<u>Series B</u> <u>preferred</u> <u>stock</u>	<u>Common</u> <u>stock</u>	<u>Paid-in</u> <u>capital</u>	<u>Retained</u> <u>earnings</u>	<u>Treasury</u> <u>stock</u>	<u>Non</u> <u>controlling</u> <u>interest</u>	<u>Accum other</u> <u>comp loss</u>	<u>Total equity</u>
Balance at December 31, 2021	\$ 1	\$ 15	\$ 195	\$ 206,772	\$ 202,484	\$ (33,511)	\$ 53	\$ (29,282)	\$ 346,727
Preferred dividends paid	—	—	—	—	(23)	—	—	—	(23)
Restricted stock compensation expense	—	—	—	370	—	—	—	—	370
Tax related items for share based awards	—	—	—	(159)	—	—	—	—	(159)
Issuance of shares of common stock	—	—	—	527	—	—	—	—	527
Currency translation adjustment	—	—	—	—	—	—	—	1,669	1,669
Purchase of treasury stock	—	—	—	—	—	(1,513)	—	—	(1,513)
Net income	—	—	—	—	12,642	—	(113)	—	12,529
Balance at March 31, 2022	<u>\$ 1</u>	<u>\$ 15</u>	<u>\$ 195</u>	<u>\$ 207,510</u>	<u>\$ 215,103</u>	<u>\$ (35,024)</u>	<u>\$ (60)</u>	<u>\$ (27,613)</u>	<u>\$ 360,127</u>

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

DXP ENTERPRISES, INC. AND SUBSIDIARIES
NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 - THE COMPANY

DXP Enterprises, Inc. together with its subsidiaries (collectively "DXP," "Company," "us," "we," or "our") was incorporated in Texas on July 26, 1996. DXP Enterprises, Inc. and its subsidiaries are engaged in the business of distributing maintenance, repair and operating ("MRO") products and service to a variety of end markets and industrial customers. Additionally, DXP provides integrated, custom pump skid packages, pump remanufacturing and manufactures branded private label pumps to energy and industrial customers. The Company is organized into three business segments: Service Centers ("SC"), Supply Chain Services ("SCS") and Innovative Pumping Solutions ("IPS"). See [Note 12 - Segment Reporting](#) for discussion of the business segments.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING AND BUSINESS POLICIES

Basis of Presentation

The Company's financial statements are prepared in accordance with generally accepted accounting principles in the United States of America ("US GAAP"). The accompanying unaudited condensed consolidated financial statements include the accounts of the Company, its wholly owned subsidiaries and its variable interest entity ("VIE"). The accompanying unaudited condensed consolidated financial statements have been prepared on substantially the same basis as our annual consolidated financial statements and should be read in conjunction with our Annual Report on Form 10-K for the year ended December 31, 2021. For a more complete discussion of our significant accounting policies and business practices, refer to the consolidated Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 5, 2022. The results of operations for the three months ended March 31, 2022 are not necessarily indicative of results expected for the full fiscal year. In the opinion of management, these unaudited condensed consolidated financial statements contain all adjustments necessary to present fairly the Company's condensed consolidated statements of operations and comprehensive income for the three months ended March 31, 2022 and March 31, 2021, condensed consolidated balance sheets as of March 31, 2022 and December 31, 2021, condensed consolidated statements of cash flows for the three months ended March 31, 2022 and March 31, 2021, and condensed consolidated statements of equity for the three months ended March 31, 2022 and March 31, 2021. All such adjustments represent normal recurring items.

All inter-company accounts and transactions have been eliminated upon consolidation.

NOTE 3 - RECENT ACCOUNTING PRONOUNCEMENTS

Accounting Pronouncements Not Yet Adopted

In March 2020, the FASB issued ASU 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*. This update provides optional expedients and exceptions for applying generally accepted accounting principles to certain contract modifications and hedging relationships that reference London Inter-Bank Offered Rate (LIBOR) or another reference rate expected to be discontinued. The guidance is effective upon issuance and generally can be applied through December 31, 2022. The Company evaluated the impact of this ASU and it does not expect a material impact on the Consolidated Financial Statements.

In October 2021, the FASB issued Accounting Standards Update (ASU) 2021-08, *Business Combinations (Topic 805) - Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, to address diversity in practice on how an acquirer should recognize and measure revenue contracts acquired in a business combination. ASU 2021-08 will require an acquirer to recognize and measure contract assets acquired and contract liabilities assumed in a business combination in accordance with FASB Accounting Standards Codification (ASC) 606, *Revenue from Contracts with Customers*.

For the Company, ASU 2021-08 is effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. The ASU should be applied prospectively to business combinations occurring on or after the effective date. Early adoption of ASU 2021-08 is permitted, including in an interim period. The Company expects the new Standard to have an impact for future acquisitions. From time to time the Company does acquire businesses that perform project-based work and therefore include Contract Assets and Liabilities.

All other new accounting pronouncements that have been issued, but not yet effective, are currently being evaluated and at this time are not expected to have a material impact on our financial position or results of operations.

NOTE 4 - REVISION

During the first quarter of 2022, we identified errors in the translation of the goodwill associated with our investment in our Canadian subsidiaries. We determined that we were not appropriately translating Canadian goodwill in consolidation since acquiring these businesses in 2012 and 2013. The failure to translate these balances resulted in an overstatement of US dollar-based goodwill for several years.

We assessed the materiality of the errors on prior period financial statements in accordance with Securities and Exchange Commission Staff Accounting Bulletin No. 99, *Materiality*, codified in Accounting Standards Codification (ASC) 250, Presentation of Financial Statements. We concluded that the errors were not material to our prior period consolidated financial statements and therefore, amendments of previously filed consolidated financial statements are not required. In accordance with ASC 250, we have corrected the errors by revising the consolidated financial statements presented herein. Prior periods not presented herein will be revised, as applicable, in future filings.

The impacts of the revisions on the periods presented herein are provided in the following tables.

	Three Months Ended March 31, 2021		
	As previously Reported	Adjustments	Revised
CONDENSED CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME			
Currency translation adjustments	\$ 1,277	\$ 214	\$ 1,491
Total comprehensive income	\$ 1,436	\$ 214	\$ 1,650

	As previously Reported	Adjustments	Revised
BALANCE SHEET (AT DECEMBER 31, 2021):			
Goodwill	\$ 308,506	\$ (11,965)	\$ 296,541
Total Assets	\$ 906,192	\$ (11,965)	\$ 894,227
Cumulative Translation Adjustment	\$ (17,317)	\$ (11,965)	\$ (29,282)
Equity	\$ 358,692	\$ (11,965)	\$ 346,727
Total Liabilities & Equity	\$ 906,192	\$ (11,965)	\$ 894,227

	Accumulated Other Comprehensive Loss		
	As previously Reported	Adjustments	Revised
CONDENSED CONSOLIDATED STATEMENTS OF EQUITY			
Balance at December 31, 2020	\$ (18,013)	\$ (12,016)	\$ (30,029)
Currency translation adjustment	\$ 1,277	\$ 214	\$ 1,491
Balance at March 31, 2021	\$ (16,736)	\$ (11,802)	\$ (28,538)
Balance at December 31, 2021	\$ (17,317)	\$ (11,965)	\$ (29,282)

NOTE 5 - FAIR VALUE OF FINANCIAL ASSETS AND LIABILITIES

Authoritative guidance for financial assets and liabilities measured on a recurring basis applies to all financial assets and financial liabilities that are being measured and reported on a fair value basis. Fair value, as defined in the authoritative guidance, is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The authoritative guidance affects the fair value measurement of an investment with quoted market prices in an active market for identical instruments, which must be classified in one of the following categories:

Level 1 inputs come from quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2 inputs are other than quoted prices that are observable for an asset or liability. These inputs include: quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar assets or liabilities in markets that are not active; inputs other than quoted prices that are observable for the asset or liability; and inputs that are derived principally from, or corroborated by, observable market data by correlation or other means.

Level 3 inputs are unobservable inputs for the asset or liability which require the Company's own assumptions. Financial assets and liabilities are classified based on the lowest level of input that is significant to the fair value measurement. Our assessment of the significance of a particular input to the fair value measurement requires judgment and may affect the valuation of the fair value of assets and liabilities and their placement within the fair value hierarchy levels.

Our acquisitions may include contingent consideration as part of the purchase price. The fair value of the contingent consideration is estimated as of the acquisition date based on the present value of the contingent payments to be made using a weighted probability of possible payments. The unobservable inputs used in the determination of the fair value of the contingent consideration include managements assumptions about the likelihood of payment based on the established benchmarks and discount rates based on an internal rate of return analysis. The fair value measurement includes inputs that are Level 3 inputs as discussed above, as they are not observable in the market. Should actual results increase or decrease as compared to the assumptions used in our analysis, the fair value of the contingent consideration obligations will increase or decrease, up to the contracted limit, as applicable. Changes in the fair value of the contingent earn-out consideration are measured each reporting period and reflected in our results of operations.

As of March 31, 2022, we recorded liabilities in other current and long-term liabilities for contingent consideration associated with the acquisition of PMI, Burlingame and Drydon of \$1.4 million, \$0.1 million and \$2.6 million, respectively. See further discussion at [Note 13 - Business Acquisitions](#). For the Company's assets and liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3), the following table provides a reconciliation of the beginning and ending balances for each category therein, and gains or losses recognized during the three months ended March 31, 2022:

Fair Value Measurements Using Significant Unobservable Inputs (Level 3)

	Contingent Liability for Accrued Consideration
	(in thousands)
Beginning balance at December 31, 2021	\$ 905
Acquisitions and settlements	
Acquisitions (Note 13)	2,689
Settlements	—
Total remeasurement adjustments:	
Changes in fair value recorded in other (income) expense, net	531
*Ending Balance at March 31, 2022	<u>\$ 4,125</u>
The amount of total (gains) or losses for the quarter included in earnings or changes to net assets, attributable to changes in unrealized losses relating to liabilities still held at March 31, 2022.	<u>\$ 531</u>

* Included in other current liabilities

Quantitative Information about Level 3 Fair Value Measurements

The significant unobservable inputs used in the fair value measurement of the Company's contingent consideration liabilities designated as Level 3 are as follows:

(in thousands, unaudited)	Fair value at March 31, 2022	Valuation Technique	Significant Unobservable Inputs
Contingent consideration: (PMI, Burlingame and Drydon acquisitions)	\$ 4,125	Discounted cash flow	Annualized EBITDA and probability of achievement

Sensitivity to Changes in Significant Unobservable Inputs

As presented in the table above, the significant unobservable inputs used in the fair value measurement of contingent consideration related to the acquisition of PMI, Burlingame and Drydon are annualized EBITDA forecasts developed by the Company's management and the probability of achievement of those EBITDA results. The discount rate used in the calculation was 7.6%. Significant increases (decreases) in these unobservable inputs in isolation would result in a significantly (lower) higher fair value measurement.

Other financial instruments not measured at fair value on the Company's unaudited condensed consolidated balance sheets at March 31, 2022 and December 31, 2021, but which require disclosure of their fair values include: cash, trade accounts receivable, trade accounts payable and accrued expenses, accrued payroll and related benefits, and the revolving line of credit and term loan debt under our syndicated credit agreement facility (Note 9). Due to the short-term nature of these aforementioned securities, the Company believes that the estimated fair value of such instruments at March 31, 2022 and December 31, 2021 approximates their carrying value as reported on the unaudited condensed consolidated balance sheets.

NOTE 6 – INVENTORIES

The carrying values of inventories are as follows (in thousands):

	March 31, 2022	December 31, 2021
Finished goods	\$ 83,655	\$ 80,329
Work in process	28,207	20,565
Inventories	\$ 111,862	\$ 100,894

NOTE 7 – CONTRACT ASSETS AND LIABILITIES

Under our customized pump production and long-term water and wastewater project contracts in our IPS segment, amounts are billed as work progresses in accordance with agreed-upon contractual terms, upon various measures of performance, including achievement of certain milestones, completion of specified units, or completion of a contract. Generally, billing occurs subsequent to revenue recognition, resulting in contract assets. Our contract assets are presented as “Cost and estimated profits in excess of billings” on our condensed consolidated balance sheets. However, we sometimes receive advances or deposits from our customers before revenue is recognized, resulting in contract liabilities that are presented as “Billings in excess of costs and estimated profits” on our unaudited condensed consolidated balance sheets.

Costs and estimated profits on uncompleted contracts and related amounts billed were as follows (in thousands):

	March 31, 2022	December 31, 2021
Costs incurred on uncompleted contracts	\$ 54,888	\$ 41,329
Estimated profits, thereon	21,594	17,143
Total	76,482	58,472
Less: billings to date	61,315	44,859
Net	\$ 15,167	\$ 13,613

Such amounts were included in the accompanying unaudited condensed consolidated balance sheets for March 31, 2022 and December 31, 2021 under the following captions (*in thousands*):

	<u>March 31, 2022</u>	<u>December 31, 2021</u>
Costs and estimated profits in excess of billings	\$ 20,504	\$ 17,193
Billings in excess of costs and estimated profits	(5,328)	(3,581)
Translation adjustment	(9)	1
Net	<u>\$ 15,167</u>	<u>\$ 13,613</u>

During the three months ended March 31, 2022, \$2 million of the balances that were previously classified as contract liabilities at the beginning of the period shipped. Contract assets and liability changes were primarily due to normal activity and timing differences between our performance and customer payments.

NOTE 8 – INCOME TAXES

Our effective tax rate from continuing operations was a tax expense of 21.0 percent for the three months ended March 31, 2022 compared to a tax expense of 90.9 percent for the three months ended March 31, 2021. Compared to the U.S. statutory rate for the three months ended March 31, 2022, the effective tax rate was increased by state taxes, foreign taxes, nondeductible expenses, and uncertain tax positions recorded due to tax authorities' auditing of research and development tax credits. The effective tax rate decreased by research and development tax credits and other tax credits. Compared to the U.S. statutory rate for the three months ended March 31, 2021, the effective tax rate was increased by state taxes, foreign taxes, nondeductible expenses, and uncertain tax positions recorded due to tax authorities' auditing of research and development tax credits. The effective tax rate decreased by research and development tax credits and other tax credits.

To the extent penalties and interest would be assessed on any underpayment of income tax, such accrued amounts would be classified as a component of income tax provision (benefit) in the financial statements consistent with the Company's policy.

NOTE 9 – LONG-TERM DEBT

The components of the Company's long-term debt consisted of the following (*in thousands*):

	<u>March 31, 2022</u>		<u>December 31, 2021</u>	
	<u>Carrying Value ⁽¹⁾</u>	<u>Fair Value</u>	<u>Carrying Value ⁽¹⁾</u>	<u>Fair Value</u>
ABL Revolver	\$ —	\$ —	\$ —	\$ —
Term Loan B	325,875	325,060	326,700	325,883
Total long-term debt	<u>325,875</u>	<u>325,060</u>	<u>326,700</u>	<u>325,883</u>
Less: current portion	(3,300)	(3,292)	(3,300)	(3,292)
Long-term debt less current maturities	<u>\$ 322,575</u>	<u>\$ 321,768</u>	<u>\$ 323,400</u>	<u>\$ 322,591</u>

⁽¹⁾ Carrying value amounts do not include unamortized debt issuance costs of \$7.5 million and \$8.0 million for March 31, 2022 and December 31, 2021, respectively.

Credit Agreements

On March 17, 2020, the Company entered into an Increase Agreement (the "Increase Agreement") that provided for a \$135.0 million asset-backed revolving line of credit (the "ABL Revolver"), a \$50.0 million increase above the \$85.0 million original revolver. The Increase Agreement amends and supplements that certain Loan and Security Agreement, dated as of August 29, 2017. As of March 31, 2022, the Company had no amount outstanding under the ABL Revolver and had \$132.2 million of borrowing capacity, net of the impact of outstanding letters of credit.

On December 23, 2020, DXP entered into a new seven year, \$330 million Senior Secured Term Loan B (the "Term Loan B Agreement"), which replaced DXP's previously existing Senior Secured Term Loan.

The fair value measurements used by the Company are considered Level 2 inputs, as defined in the fair value hierarchy. The fair value estimates were based on quoted prices for identical or similar securities.

The Company was in compliance with all financial covenants under the ABL Revolver and Term Loan B Agreements as of March 31, 2022, and December 31, 2021.

NOTE 10 - EARNINGS PER SHARE DATA

Basic earnings per share is computed based on weighted average shares outstanding and excludes dilutive securities. Diluted earnings per share is computed including the impacts of all potentially dilutive securities.

The following table sets forth the computation of basic and diluted earnings per share for the periods indicated (*in thousands, except per share data*):

	Three Months Ended March 31,	
	2022	2021
Basic:		
Weighted average shares outstanding	18,534	19,186
Net income attributable to DXP Enterprises, Inc.	\$ 12,642	\$ 371
Convertible preferred stock dividend	23	23
Net income attributable to common shareholders	\$ 12,619	\$ 348
Per share amount	\$ 0.68	\$ 0.02
Diluted:		
Weighted average shares outstanding	18,534	19,186
Assumed conversion of convertible preferred stock	840	840
Total dilutive shares	19,374	20,026
Net income attributable to common shareholders	\$ 12,619	\$ 348
Convertible preferred stock dividend	23	23
Net income attributable to DXP Enterprises, Inc.	\$ 12,642	\$ 371
Per share amount	\$ 0.65	\$ 0.02

NOTE 11 - COMMITMENTS AND CONTINGENCIES

From time to time, the Company is a party to various legal proceedings arising in the ordinary course of business. While DXP is unable to predict the outcome or estimate the financial impact of these disputes, it believes that the ultimate resolution will not have, either individually or in the aggregate, a material adverse effect on DXP's consolidated financial position, cash flows, or results of operations.

NOTE 12 - SEGMENT REPORTING

The Company's reportable business segments are: Service Centers, Innovative Pumping Solutions and Supply Chain Services. The Service Centers segment is engaged in providing maintenance, repair and operating MRO products, equipment and integrated services, including logistics capabilities, to industrial customers. The Service Centers segment provides a wide range of MRO products in the rotating equipment, bearing, power transmission, hose, fluid power, metal working, industrial supply, safety products and safety services categories. The Innovative Pumping Solutions segment fabricates and assembles custom-made pump packages, re-manufactures pumps, manufactures branded private label pumps and provides products and process lines for the water and wastewater treatment industries. The Supply Chain Services segment provides a wide range of MRO products and manages all or part of a customer's supply chain, including warehouse and inventory management.

The high degree of integration of the Company's operations necessitates the use of a substantial number of allocations and apportionments in the determination of business segment information. Sales are shown net of inter-segment eliminations.

The following table sets out financial information related to the Company's segments excluding amortization (*in thousands*):

	Three Months Ended March 31,				2021			
	2022							
	SC	IPS	SCS	Total	SC	IPS	SCS	Total
Product sales ¹	\$ 195,626	\$ —	\$ 42,390	\$ 238,016	\$ 165,342	\$ —	\$ 31,777	\$ 197,119
Inventory services ²	—	—	5,166	5,166	—	—	4,196	4,196
Staffing services ³	23,171	—	—	23,171	21,027	—	—	21,027
Pump production and delivery ⁴	—	53,058	—	53,058	—	23,245	—	23,245
Total Revenue	\$ 218,797	\$ 53,058	\$ 47,556	\$ 319,411	\$ 186,369	\$ 23,245	\$ 35,973	\$ 245,587
Income from operations ⁵	\$ 27,351	\$ 7,069	\$ 4,020	\$ 38,440	\$ 22,137	\$ 947	\$ 2,323	\$ 25,407

¹Product sales that are recognized at a point in time.

² Inventory management services that are recognized over the contract life.

³Staffing services that are invoiced on a day-rate basis.

⁴Custom pump production and delivery is recognized over time.

⁵Income from operations excludes amortization of intangibles and corporate expenses.

The following table presents reconciliations of operating income for reportable segments to the consolidated income before taxes (*in thousands*):

	Three Months Ended March 31,	
	2022	2021
Operating income for reportable segments	\$ 38,440	\$ 25,407
Adjustment for:		
Amortization of intangible assets	4,235	4,146
Corporate expenses	12,646	15,028
Income from operations	\$ 21,559	\$ 6,233
Interest expense	5,162	5,243
Other (income) expense, net	536	(430)
Income before income taxes	\$ 15,861	\$ 1,420

NOTE 13 - BUSINESS ACQUISITIONS

On March 1, 2022, the Company completed the acquisition of Drydon Equipment, Inc. (“Drydon”), a distributor and manufacturers’ representative of pumps, valves, controls and process equipment focused on serving the water and wastewater industry in the Midwest. The acquisition of Drydon was funded with cash on hand as well as issuing DXP’s common stock. The Company paid approximately \$7.9 million in cash and stock. A majority of Drydon’s sales are project-based work under the percentage-of-completion accounting model. As a result, Drydon has been included in the IPS segment. For the three months ended March 31, 2022, Drydon contributed sales of \$1.4 million and net income of \$0.7 million. Goodwill for the transaction totaled approximately \$4.1 million.

On March 1, 2022, the Company completed the acquisition of certain assets of Burlingame Engineers, Inc. (“Burlingame”), a provider of water and wastewater equipment in the industrial and municipal sectors. The Company paid approximately \$1.1 million in cash, stock and future consideration. For the three months ended March 31, 2022, Burlingame contributed sales of \$0.4 million and net income of \$6 thousand.

Pro forma revenue and net income have been excluded as the amounts would have been immaterial to the consolidated results of the Company for the current and prior year.

In aggregate, the acquisition-date fair value of the consideration transferred for the two businesses totaled \$9.0 million, which consisted of the following:

<u>Purchase Price Consideration (in millions)</u>	<u>Total Consideration</u>
Cash payments	\$ 5.8
Fair value of stock issued	0.5
Future consideration	<u>2.7</u>
Total purchase price consideration	\$ 9.0

The fair value of the 21,844 common shares issued was determined based on the closing market price of the Company’s common shares on the acquisition date, adjusted for holding restrictions following consummation.

The following table summarizes the preliminary estimated fair values of the assets acquired and liabilities assumed at the acquisition date:

<i>(In thousands)</i>	
Cash	\$ 517
Accounts receivable	2,709
Other receivables	56
Inventory	37
Non-compete agreements	229
Customer relationships	1,770
Property and equipment	124
Other assets	<u>2</u>
Assets acquired	\$ 5,444
Current liabilities assumed	(1,061)
Net assets acquired	\$ 4,383
Total Consideration	<u>(9,049)</u>
Goodwill	\$ 4,666

Of the \$2 million of acquired intangible assets, \$0.2 million was provisionally assigned to non-compete agreements that are subject to amortization over 5 years, coincident with the terms of the agreements. In addition, \$1.8 million was assigned to customer relationships, and will be amortized over a period of 8 years. The goodwill total of approximately \$4.7 million is

attributable primarily to expected synergies and the assembled workforce of each entity and is generally deductible for tax purposes.

The fair value of accounts receivables acquired is \$2.7 million, which approximated book value.

The Company recognized less than \$300,000 of acquisition related costs that were expensed in the current period. These costs are included in the Condensed Consolidated Statements of Operations and Comprehensive Income in Selling, General and Administrative costs. The Company also recognized an immaterial amount in costs associated with issuing the shares issued as consideration in the business combination. Those costs were deducted from the recognized proceeds of issuance within stockholders' equity.

NOTE 14 - SHARE REPURCHASE

On May 12, 2021, the Company announced that its Board of Directors authorized a share repurchase program (the "program") under which up to \$85.0 million or 1.5 million shares of its outstanding common stock may be acquired in the open market over the next 24 months at the discretion of management. During the three months ended March 31, 2022, the Company repurchased 58.9 thousand shares of common stock for \$1.5 million at an average price of \$25.66 per share.

Total consideration paid to repurchase the shares was recorded in shareholders' equity as treasury shares. Such consideration was funded with existing cash balances and an agreement to pay sellers over four equal quarterly installments beginning on June 15, 2021. The remaining one installment totaling \$6.8 million was included in other current liabilities as of March 31, 2022.

<i>(in thousands, except per share data)</i>	Three Months Ended	
	March 31,	
	2022	
Total number of shares purchased		58.9
Amount paid	\$	1,511
Average price paid per share	\$	25.66

NOTE 15 - SUBSEQUENT EVENT

On May 3, 2022, the Company completed the acquisition of Cisco Air Systems, Inc. ("Cisco"). Cisco is a leading distributor of air compressors and related products and services focused on serving the food & beverage, transportation and general industrial markets in the Northern California and Nevada territories. Total consideration for the transaction was approximately \$45 million, funded with a mixture of cash on hand of \$29 million, DXP stock valued at approximately \$5 million and a draw down of approximately \$11 million on the ABL.

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

The following management discussion and analysis ("MD&A") of the financial condition and results of operations of DXP Enterprises, Inc. together with its subsidiaries (collectively "DXP," "Company," "us," "we," or "our") for the three months ended March 31, 2022 should be read in conjunction with our previous Annual Report on Form 10-K and our Quarterly Reports on Form 10-Q, and the consolidated financial statements and notes thereto included in such reports. The Company's consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ("US GAAP").

DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q (this "Report") contains statements that constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995, as amended. These forward-looking statements include without limitation those about the Company's expectations regarding the impact of the COVID-19 pandemic, the Ukrainian/Russia conflict and the impact on commodity prices; particularly oil and gas; the Company's business, the Company's future profitability, cash flow, liquidity, and growth. Such forward-looking statements can be identified by the use of forward-looking terminology such as "believes", "expects", "may", "might", "estimates", "will", "should", "could", "would", "suspect", "potential", "current", "achieve", "plans" or "anticipates" or the negative thereof or other variations thereon or comparable terminology, or by discussions of strategy. Any such forward-looking statements are not guarantees of future performance and may involve significant risks and uncertainties, and actual results may vary materially from those discussed in the forward-looking statements or historical performance as a result of various factors. These factors include the effectiveness of management's strategies and decisions, our ability to implement our internal growth and acquisition growth strategies, general economic and business conditions specific to our primary customers, changes in government regulations, our ability to effectively integrate businesses we may acquire, new or modified statutory or regulatory requirements, availability of materials and labor, inability to obtain or delay in obtaining government or third-party approvals and permits, non-performance by third parties of their contractual obligations, unforeseen hazards such as weather conditions, acts of war or terrorist acts and the governmental or military response thereto, cyber-attacks adversely affecting our operations, other geological, operating and economic considerations and declining prices and market conditions, including reduced oil and gas prices and supply or demand for maintenance, repair and operating products, equipment and service, decreases in oil and natural gas industry capital expenditure levels, which may result from decreased oil and natural gas prices or other factors, economic risks related to the long-term impact of COVID-19, our ability to manage changes and the continued health or availability of management personnel, and our ability to obtain financing on favorable terms or amend our credit facilities, as needed. This Report identifies other factors that could cause such differences. We cannot assure that these are all of the factors that could cause actual results to vary materially from the forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed in "Risk Factors", in our Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 5, 2022. We assume no obligation and do not intend to update these forward-looking statements. Unless the context otherwise requires, references in this Report to the "Company", "DXP", "we" or "our" shall mean DXP Enterprises, Inc., a Texas corporation, together with its subsidiaries.

CURRENT MARKET CONDITIONS AND OUTLOOK

General

DXP Enterprises, Inc. is a business-to-business distributor of maintenance, repair and operating and production ("MRO") products and services to a variety of customers in different end markets primarily across North America. Additionally, we fabricate, remanufacture and assemble custom pump packages along with manufacturing branded private label pumps.

Ukrainian - Russia Conflict

In February 2022, Russia invaded Ukraine. DXP has no direct exposure to Russia or Ukraine, however, the Company continues to monitor any broader impact in the global economy, including inflation and cost pressures, supply chains and energy prices. The full impact of the conflict on the Company's business and financial results remains uncertain and will depend on the severity and duration of the war and its impact on global economic conditions.

Inflation

As the world recovered and reopened during fiscal 2021, and continuing into the current fiscal year, the global commodity and labor markets experienced significant inflationary pressures attributable to economic recovery and supply chain issues tightening caused by the COVID-19 pandemic and the Ukrainian-Russia conflict mentioned above. These inflationary trends increased the cost of many of the products we buy. As a distributor, we often remain neutral to inflation as those costs are generally passed

onto customers. The Company was able to implement these and other strategies designed to mitigate some of the adverse effects of higher costs during the first quarter of fiscal 2022 while also remaining price competitive.

COVID-19 Pandemic Impact

The COVID-19 pandemic began in the first quarter of 2020 and continued throughout the first quarter of fiscal 2022, causing significant disruptions in the U.S. and global markets. While the ongoing recovery continues, it has been accompanied by a resurgence in demand as industries return to regular operations, which continues to disrupt supply chains, transportation efficiency, product and labor availability. The full extent and long-term impacts on the Company's business and financial results will depend on several uncertain and unpredictable developments including any continued spread of the virus and its variants, the availability and effectiveness of treatments and vaccines, imposition of protective public safety measures and the overall impact of government measures to combat the spread of the virus. We are not able to predict whether our customers will continue to operate at their current or historical levels, and such decreases in their operations would have a negative impact on our business. We are also unable to predict how long the COVID-19 pandemic will last and the impact of the pandemic on future demand for our products and services.

For additional discussion of the potential impact of the COVID-19 pandemic on our business, see Part I, Item 1A: Risk Factors in the Company's 2021 Form 10-K.

Matters Affecting Comparability

There were 64 business days in the three months ended March 31, 2022 and 63 business days in the three months ended March 31, 2021.

Outlook

Service Centers & Supply Chain Services Segments

The replacement and mission-critical nature of our products and services within the Company's Service Centers and Supply Chain Services business segments and industrial and manufacturing environments and processes drives a demand and outlook that are correlated with global, national and regional industrial production, capacity utilization and long-term GDP growth. Long-term economic conditions remain uncertain with regard to COVID-19 and its impact on various end markets, however, recent order activity improved as markets strengthened and restrictions and mandates were lifted. In the first quarter of 2022, we had approximately \$266.4 million in sales in our Service Centers and Supply Chain Services segment, an increase of approximately 19.8 percent over the first quarter of 2021. We expect financial results to continually improve with interim periods of potential setback should new variants arise or other economic headwinds prevail.

Innovative Pumping Solutions Segment

In the first quarter of 2022, we had approximately \$53.1 million in sales in our Innovative Pumping Solutions segment, an increase of approximately \$29.8 million over the first quarter of 2021, of which \$9.1 million was associated with recent acquisitions in the water and wastewater market. Beginning in the latter half of 2021, we began to see an improvement in the demand for oil and natural gas as the roll out of the COVID-19 vaccinations gradually improved around the globe and pandemic restrictions eased. The increasing optimism related to oil & gas demand recovery led to higher commodity prices. Although demand levels remained below pre-pandemic levels, there is growing confidence of returning to 2019 levels in the coming years. In the first quarter of 2022, the Ukrainian-Russia conflict caused further disruption in the global oil and gas supply and spurred price increases around the world. These forces contributed to higher spend by oil and gas producers and thus an increase in oil & gas projects within our Innovative Pumping Solutions segment. We expect to benefit from the increased activity throughout 2022.

RESULTS OF OPERATIONS

(in thousands, except percentages and per share data)

DXP is organized into three business segments: Service Centers ("SC"), Supply Chain Services ("SCS") and Innovative Pumping Solutions ("IPS"). The Service Centers are engaged in providing maintenance, repair and operating ("MRO") products, equipment and integrated services, including technical expertise and logistics capabilities, to industrial customers with the ability to provide same day delivery. The Service Centers provide a wide range of MRO products and services in the rotating equipment, bearing, power transmission, hose, fluid power, metal working, industrial supply and safety product and service categories. The SCS segment provides a wide range of MRO products and manages all or part of our customer's supply chain function, and inventory management. The IPS segment fabricates and assembles integrated pump system packages custom made to customer specifications, remanufactures pumps and manufactures branded private label pumps.

	Three Months Ended March 31,			
	2022	%	2021	%
Sales	\$ 319,411	100.0 %	\$ 245,587	100.0 %
Cost of sales	224,527	70.3 %	173,957	70.8 %
Gross profit	\$ 94,884	29.7 %	\$ 71,630	29.2 %
Selling, general and administrative expenses	73,325	23.0 %	65,397	26.6 %
Impairment and other charges	—	— %	—	— %
Income from operations	\$ 21,559	6.7 %	\$ 6,233	2.5 %
Other (income) expense, net	536	0.2 %	(430)	(0.2) %
Interest expense	5,162	1.6 %	5,243	2.1 %
Income before income taxes	\$ 15,861	5.0 %	\$ 1,420	0.6 %
Provision for income taxes	3,332	1.0 %	1,261	0.5 %
Net income	\$ 12,529	3.9 %	\$ 159	0.1 %
Net loss attributable to noncontrolling interest	(113)	—	(212)	—
Net income attributable to DXP Enterprises, Inc.	\$ 12,642	4.0 %	\$ 371	0.2 %
Per share amounts attributable to DXP Enterprises, Inc.				
Basic earnings per share	0.68		\$ 0.02	
Diluted earnings per share	0.65		\$ 0.02	

Three Months Ended March 31, 2022 compared to Three Months Ended March 31, 2021

SALES. Sales for the three months ended March 31, 2022 increased \$73.8 million, or 30.1 percent, to approximately \$319.4 million from \$245.6 million for the prior year's corresponding period. Sales from businesses acquired for three months ended March 31, 2022, accounted for \$13.1 million of the sales for the three months ended March 31, 2022. This overall sales increase is the result of an increase in sales in our SC, IPS and SCS segments of \$32.4 million, \$29.8 million and \$11.6 million, respectively. The fluctuations in sales are further explained in our business segment discussions below.

	Three Months Ended March 31,			
	2022	2021	Change	Change%
Sales by Business Segment	<i>(in thousands, except change %)</i>			
Service Centers	\$ 218,797	\$ 186,369	\$ 32,428	17.4 %
Innovative Pumping Solutions	53,058	23,245	29,813	128.3 %
Supply Chain Services	47,556	35,973	11,583	32.2 %
Total DXP Sales	\$ 319,411	\$ 245,587	\$ 73,824	30.1 %

Service Centers segment. Sales for the SC segment increased by approximately \$32.4 million, or 17.4 percent for the three months ended March 31, 2022 compared to the prior year's corresponding period. Excluding \$4.0 million of Service Centers segment sales associated with recent acquisitions, sales increased \$28.4 million from the prior year's corresponding period. This sales increase is primarily the result of increased sales of rotating equipment, safety supplies, metal working, and bearings and power transmission products to customers engaged in variety of markets as a result of the lifting of pandemic restrictions and a return to normal production and activity.

Innovative Pumping Solutions segment. Sales for the IPS segment increased by \$29.8 million, or 128.3 percent, for the three months ended March 31, 2022 compared to the prior year's corresponding period. Excluding \$9.1 million of IPS segment sales from recent acquisitions, IPS segment sales increased \$20.7 million from the prior year's corresponding period. This increase was primarily the result of an increase in the capital spending by oil and gas producers and related businesses.

Supply Chain Services segment. Sales for the SCS segment increased by \$11.6 million, or 32.2 percent, for the three months ended March 31, 2022, compared to the prior year's corresponding period. The improved sales is primarily related to increased sales to customers in the food & beverage, general manufacturing and aerospace industries as pandemic restrictions subsided and the economy rebounded.

GROSS PROFIT. Gross profit as a percentage of sales for the three months ended March 31, 2022 was 29.7 percent versus 29.2 percent in the prior year's corresponding period. Excluding the impact of the businesses acquired, gross profit as a percentage of sales was 29.5 percent. The increase in the gross profit percentage excluding the businesses acquired is primarily the result of an increase in overall project activity within our IPS segment.

Service Centers segment. As a percentage of sales, the first quarter gross profit percentage for the SC segment increased approximately 127 basis points. Adjusting for the businesses acquired, gross profit as a percentage of sales increased approximately 133 basis points from the prior year's corresponding period. This was primarily a result of volume increases and product mix. Gross profit for the SC segment, excluding businesses acquired, increased \$11.3 million, or 20.4 percent, during the three months ended March 31, 2022 compared to the prior year's corresponding period.

Innovative Pumping Solutions segment. As a percentage of sales, the first quarter gross profit percentage for the IPS segment decreased approximately 493 basis points. Adjusting for the business acquired, gross profit as a percentage of sales decreased approximately 645 basis points from the prior year's corresponding period. The decrease in gross profit percentage is primarily due to a mix shift (higher margin international work and domestic water and wastewater projects). Gross profit dollars increased \$4.4 million compared to the prior year corresponding period, excluding business acquired, primarily as a result of an increase in project work as a result of an increase in capital spending by our customers.

Supply Chain Services segment. Gross profit as a percentage of sales for the SCS segment increased approximately 80 basis points compared to the prior year's corresponding period. Gross profit for the first quarter of 2022 increased \$3.0 million or 36.8% compared to the prior year's corresponding period.

SELLING, GENERAL AND ADMINISTRATIVE ("SG&A"). Selling, general and administrative expense for the three months ended March 31, 2022 increased by approximately \$7.9 million, or 12.1%, to \$73.3 million from \$65.4 million for the prior year's corresponding period. Selling, general and administrative expense from businesses acquired accounted for \$2.2 million. Excluding expenses from businesses acquired, SG&A for the quarter increased by \$5.7 million, or 8.7%. The increase in SG&A excluding businesses acquired is primarily the result of increased payroll, incentive compensation and related taxes and 401(k) expenses as a result of increased business activity associated with recovery from the negative economic impacts of the COVID-19 pandemic.

OPERATING INCOME. Operating income for the first quarter of 2022 increased by \$15.3 million to \$21.6 million, from \$6.2 million in the prior year's corresponding period. This increase in operating income is primarily related to the aforementioned increased business activity across all segments.

INTEREST EXPENSE. Interest expense for the first quarter of 2022 increased \$0.1 million compared with the prior year's corresponding period .

INCOME TAXES. Our effective tax rate from continuing operations was a tax expense of 21.0 percent for the three months ended March 31, 2022 compared to a tax expense of 90.9 percent for the three months ended March 31, 2021. Compared to the U.S. statutory rate for the three months ended March 31, 2022, the effective tax rate was increased by state taxes, foreign taxes, nondeductible expenses, and uncertain tax positions recorded due to tax authorities' auditing of research and development tax credits. The effective tax rate was decreased by research and development tax credits and other tax credits. Compared to the U.S. statutory rate for the three months ended March 31, 2021, the effective tax rate was increased by state taxes, foreign taxes, nondeductible expenses, and uncertain tax positions recorded due to tax authorities' auditing of research and development tax credits. The effective tax rate was decreased by research and development tax credits and other tax credits.

LIQUIDITY AND CAPITAL RESOURCES

General Overview

As of March 31, 2022, we had cash and restricted cash of \$36.7 million and credit facility availability of \$132.2 million. We have a \$135.0 million asset-based loan ("ABL") facility, partially offset by letters of credit of \$2.8 million, that is due to mature in August 2022, under which we had no borrowings outstanding as of March 31, 2022 and a Term Loan B with \$325.9 million in borrowings. The Company intends to amend and extend the ABL prior to the August deadline.

Our primary source of capital is cash flow from operations, supplemented as necessary by bank borrowings or other sources of financing. As a distributor of MRO products and services and fabricator of custom pumps and packages, working capital can fluctuate as a result of changes in inventory levels, accounts receivable and costs in excess of billings for project work. Additional cash is required for capital items for information technology, warehouse equipment, leasehold improvements, pump manufacturing equipment and safety services equipment. We also require cash to pay our lease obligations and to service our debt.

The following table summarizes our net cash flows generated by operating activities, net cash used in investing activities and net cash used in financing activities for the periods presented (*in thousands*):

	Three Months Ended March 31,	
	2022	2021
Net Cash Provided by (Used in):		
Operating Activities	\$ 2,680	\$ 8,577
Investing Activities	(6,056)	617
Financing Activities	(9,322)	(1,365)
Effect of Foreign Currency	268	204
Net Change in Cash	<u>\$ (12,430)</u>	<u>\$ 8,033</u>

Operating Activities

The Company generated \$2.7 million of cash from operating activities during the three months ended March 31, 2022 compared to \$8.6 million of cash generated during the prior year's corresponding period. The \$5.9 million decrease in the amount of cash provided between the two periods was primarily driven by the increase in project work activity during the period. Cash is generally used to fund project costs in excess of amounts billed.

Investing Activities

For the three months ended March 31, 2022, net cash used in investing activities was \$6.1 million compared to \$0.6 million cash generated during the prior year's corresponding period. This \$6.7 million increase was primarily driven by the purchase of Drydon and Burlingame in March 2022. The prior year period also benefited from the sale of a corporate asset totaling \$1.3 million without comparable activity in the current year.

Financing Activities

For the three months ended March 31, 2022, net cash used in financing activities was \$9.3 million, compared to net cash used in financing activities of \$1.4 million during the prior year's corresponding period. The activity in the period was primarily attributed to share repurchase installment payment of \$6.8 million related to shares repurchased in 2021 and share purchases in 2022 of \$1.5 million.

On May 12, 2021, the Company announced that its Board of Directors authorized a share repurchase program (the “program”) under which up to \$85.0 million or 1.5 million shares of its outstanding common stock may be acquired in the open market over the next 24 months at the discretion of management. During the three months ended March 31, 2022 we purchased 59 thousand shares for approximately \$1.5 million. Such consideration was funded with existing cash balances and an agreement to pay sellers over four equal quarterly installments beginning on June 15, 2021. The remaining installment of \$6.8 million was included in other current liabilities as of March 31, 2022.

We believe this is adequate funding to support working capital needs within the business.

Funding Commitments

We intend to pursue additional acquisition targets, but the timing, size or success of any acquisition and the related potential capital commitments cannot be determined with certainty. We continue to expect to fund future acquisitions primarily with cash flows from operations and borrowings, including the undrawn portion of the credit facility or new debt issuances, but may also issue additional equity either directly or in connection with acquisitions. There can be no assurance that additional financing for acquisitions will be available at terms acceptable to the Company.

The Company believes cash generated from operations will meet normal working capital needs during the next twelve months. However, the Company may require additional debt outside of our credit facilities or equity financing to fund potential acquisitions. Such additional financings may include additional bank debt or the public or private sale of debt or equity securities. In connection with any such financing, the Company may issue securities that dilute the interests of our shareholders.

DISCUSSION OF SIGNIFICANT ACCOUNTING AND BUSINESS POLICIES

Critical accounting and business policies are those that are both most important to the portrayal of a company's financial position and results of operations, and require management's subjective or complex judgments. These policies have been discussed with the Audit Committee of the Board of Directors of DXP.

The Company's unaudited condensed financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ("US GAAP"). The accompanying unaudited Condensed Consolidated Financial Statements include the accounts of the Company, its wholly owned subsidiaries and its variable interest entity ("VIE"). The accompanying unaudited Condensed Consolidated Financial Statements have been prepared on substantially the same basis as our annual Consolidated Financial Statements and should be read in conjunction with our annual report on Form 10-K for the year ended December 31, 2021. For a more complete discussion of our significant accounting policies and business practices, refer to the consolidated annual report on Form 10-K filed with the Securities and Exchange Commission on April 5, 2022. The results of operations for the three months ended March 31, 2022 are not necessarily indicative of results expected for the full fiscal year.

RECENT ACCOUNTING PRONOUNCEMENTS

See [Note 3 - Recent Accounting Pronouncements](#) to the Condensed Consolidated Financial Statements for information regarding recent accounting pronouncements.

ITEM 3: QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

For quantitative and qualitative disclosures about market risk, see Item 7A, 'Quantitative and Qualitative Disclosures About Market Risk,' of our Annual Report on Form 10-K for the year ended December 31, 2021. Our exposures to market risk have not changed materially since December 31, 2021.

ITEM 4: CONTROLS AND PROCEDURES.

With the participation of management, our principal executive officer and principal financial officer carried out an evaluation, pursuant to Rule 13a-15(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), of the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) as of the end of the period covered by this report. Based upon that evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were not effective as of March 31, 2022 because of the material weaknesses in internal control over financial reporting described below.

Notwithstanding these material weaknesses, our management, including our principal executive officer and principal financial officer, has concluded that the condensed consolidated financial statements included in this Quarterly Report on Form 10-Q are fairly stated in all material respects in accordance with GAAP for each of the periods presented.

Material Weaknesses in Internal Control Over Financial Reporting

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. In connection with the preparation of our financial statements for 2020 and 2021, we identified certain control deficiencies in the design and operation of our internal control over financial reporting that constituted material weaknesses. The material weaknesses are:

Material weakness related to unvouchered purchase order receipts: We did not design and maintain effective controls over the timely clearing of discrepancies arising from our three-way-match process. Specifically, controls were not designed appropriately to ensure that aged items were properly cleared from the sub-ledger and ultimately accounts payable. This material weakness resulted in a restatement of previously reported results related to periods prior to December 31, 2020. Additionally, this material weakness could result in a misstatement of accounts and disclosures that would result in a material misstatement to the annual or interim consolidated financial statements that would not be prevented or detected.

Material weakness related to the application of percentage-of-completion (“POC”) accounting: We did not design or maintain effective controls over the completeness, accuracy, occurrence or determination of revenue recognized under the percentage-of-completion input method for our project-based businesses. Specifically, controls were not designed or maintained to ensure accuracy of the costs-to-date and estimates of the cost-to-complete for certain project-based contracts. In addition, clerical errors were noted in the determination of revenue recognized under the POC method. This material weakness resulted in immaterial audit adjustments related to revenue and related contract assets and liabilities during the year ended December 31, 2021. Additionally, this material weakness could result in a misstatement of accounts and disclosures that would result in a material misstatement to the annual or interim consolidated financial statements that would not be prevented or detected.

REMEDIATION PLAN FOR MATERIAL WEAKNESSES

To date we have implemented several process changes to limit the accumulation and aging of unmatched items. We continue to enhance policies and systems to timely clear discrepancies and prevent an accumulation of balances. Additionally, management is currently in the process of developing and implementing changes as a part of a comprehensive remediation plan to address the material weakness related to the application of POC accounting. We believe the remediation activities will extend through the remainder of fiscal year 2022.

Changes in Internal Control Over Financial Reporting

Except as described above, there were no changes in internal control over financial reporting identified in the evaluation for the quarter ended March 31, 2022, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II: OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS.

From time to time, the Company is a party to various legal proceedings arising in the ordinary course of business. While DXP is unable to predict the outcome of these lawsuits, it believes that the ultimate resolution will not have, either individually or in the aggregate, a material adverse effect on DXP's consolidated financial position, cash flows, or results of operations.

ITEM 1A. RISK FACTORS.

There have been no material changes to the risk factors as previously disclosed in "Part I. Item 1A. Risk Factors" in our annual report on Form 10-K for the year end December 31, 2021.

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

Recent Sales of Unregistered Securities

DXP Enterprises, Inc. issued 18,263 unregistered shares of DXP Enterprises, Inc.'s common stock as part of the consideration for the March 1, 2022 acquisition of Drydon. The unregistered shares were issued to the sellers of Drydon.

DXP Enterprises, Inc. issued 3,581 unregistered shares of DXP Enterprises, Inc.'s common stock as part of the consideration for the March 1, 2022 acquisition of Burlingame. The unregistered shares were issued to the sole seller of Burlingame.

We relied on Section 4(a)(2) of the Securities Exchange Act as a basis for exemption from registration. All issuances were as a result of private negotiation, and not pursuant to public solicitation. In addition, we believe the shares were issued to "accredited investors" as defined by Rule 501 of the Securities Act.

Issuer Purchases of Equity Securities

A summary of our purchases of DXP Enterprises, Inc. common stock during the first quarter of fiscal year 2022 is as follows:

	Total Number of Shares Purchased (1)	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (2)	Maximum Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs (in thousands) (2)
Jan 1 - Jan 31	58,927	\$ 25.66	58,887	\$ 49,982
Feb 1 - Feb 28	842	29.27		49,982
Mar 1 - Mar 31	4,646	28.30		49,982
Total	<u>64,415</u>		<u>58,887</u>	49,982

(1) There were 5,528 shares transferred from employees in satisfaction of minimum statutory tax withholding obligations upon the vesting of restricted stock during three months ended March 31, 2022.

(2) On May 12, 2021, the Company announced the Share Repurchase Program pursuant to which we may repurchase up to \$85.0 million or 1.5 million shares of the Company's outstanding common stock over the next 24 months. As of March 31, 2022, \$50 million or 256 thousand shares remained available under the \$85.0 million Share Repurchase Program.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES.

None

ITEM 4. MINE SAFETY DISCLOSURES.

None.

ITEM 5. OTHER INFORMATION.

None.

ITEM 6. EXHIBITS.

- 3.1 [Restated Articles of Incorporation, as amended \(incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-8, filed with the Commission on August 20, 1998, File No. :333-61953\).](#)
- 3.2 [Bylaws of DXP Enterprises, Inc. \(incorporated by reference to Exhibit 3.2 to the Company's Quarterly Report on Form 10-Q, filed with the SEC on May 10, 2018 \(File No. 000-21513\), as amended on July 27, 2011.](#)
- 3.3 [Amendment to Section 3.4 of the Bylaws of DXP Enterprises, Inc., effective January 1, 2022. Bylaws, as amended on April 23, 201 \(incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K \(File No. 000-21513 : 21860170, filed with the Commission on April 27, 2021\).](#)
- * 10.1 [Form of Indemnification Agreement between DXP Enterprises, Inc. and each of its directors.](#)
- * 22.1 [Subsidiary Guarantors of Guaranteed Securities](#)
- * 31.1 [Certification of Chief Executive Officer pursuant to Rule 13a-14\(a\) and rule 15d-14\(a\) of the Securities Exchange Act, as amended.](#)
- * 31.2 [Certification of Chief Financial Officer pursuant to Rule 13a-14\(a\) and rule 15d-14\(a\) of the Securities Exchange Act, as amended.](#)
- * 32.1 [Certification of Chief Executive Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)
- * 32.2 [Certification of Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)
- *101 [The following financial information from the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2022, formatted in Inline eXtensible Business Reporting Language \(iXBRL\), \(i\) Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income, \(ii\) Unaudited Condensed Consolidated Balance Sheets, \(iii\) Unaudited Condensed Consolidated Statements of Cash Flows, \(iv\) Unaudited Condensed Consolidated Statements of Equity, and \(v\) Notes to Unaudited Condensed Consolidated Financial Statements.](#)
- *104 [The cover page from the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 formatted in Inline XBRL.](#)

Exhibits designated by the symbol * are filed or furnished with this Quarterly Report on Form 10-Q. All exhibits not so designated are incorporated by reference to a prior filing with the Commission as indicated.

SIGNATURES

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

DXP ENTERPRISES, INC.

(Registrant)

By: /s/ Kent Yee

Kent Yee

Senior Vice President and Chief Financial Officer

(Duly Authorized Signatory and Principal Financial Officer)

Dated: May 13, 2022

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“Agreement”) is made as of April 29, 2021 by and between DXP Enterprises, Inc., a Texas corporation (the “Company”), and DXP Enterprises, Inc. Board Member/s (“Indemnitee”). This Agreement supersedes and replaces any and all previous agreements between the Company and Indemnitee covering the subject matter of this Agreement.

RECITALS

WHEREAS, highly competent persons have become more reluctant to serve publicly-held corporations as directors and officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Company (the “Board”) has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Organizational Documents (as defined below) require indemnification of the officers and directors of the Company. Indemnitee may also be entitled to indemnification pursuant the TBOC (as defined below). The Organizational Documents of the Company and the TBOC expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the board of directors, officers and other persons with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company and its stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of the Organizational Documents and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder;

WHEREAS, Indemnitee does not regard the protection available under the Organizational Documents and insurance as adequate in the present circumstances, and may not be willing to serve as an officer or director without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he be so indemnified; and

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Services to the Company. Indemnitee agrees to serve as a director and/or officer of the Company. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to continue Indemnitee in such position. This Agreement shall not be deemed an employment contract between the Company (or any of its subsidiaries or any Enterprise) and Indemnitee. Indemnitee specifically acknowledges that Indemnitee's employment with the Company (or any of its subsidiaries or any Enterprise), if any, is at will, and the Indemnitee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment contract between Indemnitee and the Company (or any of its subsidiaries or any Enterprise), other applicable formal severance policies duly adopted by the Board, or, with respect to service as a director or officer of the Company, by the Company's Organizational Documents and the TBOC. The foregoing notwithstanding, this Agreement shall continue in force after Indemnitee has ceased to serve as an officer and director of the Company, as provided in Section 18 hereof.

Section 2. Definitions. As used in this Agreement:

(a) References to "agent" shall mean any person who is or was a director, officer, or employee of the Company or a subsidiary of the Company or other person authorized by the Company to act for the Company, to include such person serving in such capacity as a director, officer, employee, fiduciary or other member of another corporation, partnership, limited liability company, joint venture, trust, organization or other enterprise at the request of,

for the convenience of, or to represent the interests of the Company or a subsidiary of the Company.

(b) A “Change in Control” shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

i. Acquisition of Stock by Third Party. Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company’s then outstanding securities unless the change in relative Beneficial Ownership of the Company’s securities by any Person results solely from a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors;

ii. Change in Board of Directors. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Section 2(b)i, Section 2(b)iii or Section 2(b)iv) whose election by the Board or nomination for election by the Company’s stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the members of the Board;

iii. Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50% of the combined voting power of the voting securities of the surviving entity outstanding immediately following such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such surviving entity;

iv. Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company’s assets; and

v. Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act (as defined below), whether or not the Company is then subject to such reporting requirement.

For purposes of this Section 2(b), the following terms shall have the following meanings:

(1) “Beneficial Owner” shall have the meaning given to such term in Rule 13d-3 under the Exchange Act; provided, however, that Beneficial Owner

shall exclude any Person otherwise becoming a Beneficial Owner by reason of the stockholders of the Company approving a merger of the Company with another entity.

(2) “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended from time to time.

(3) “Person” shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(c) “Corporate Status” describes the status of a person who is or was a director, officer, employee or agent of the Company or of any other corporation, limited liability company, partnership or joint venture, trust, organization or other enterprise which such person is or was serving at the request of the Company.

(d) “Disinterested Director” shall mean a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(e) “Enterprise” shall mean the Company and any other corporation, limited liability company, partnership, joint venture, trust, organization or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, officer, trustee, partner, managing member, employee, agent or fiduciary.

(f) “Expenses” shall include all reasonable attorneys’ fees, retainers, court costs, transcript costs, fees of experts and other professionals, witness fees, travel expenses, electronic discovery costs, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses also shall include (i) Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond, supersede as bond, or other appeal bond or its equivalent, and (ii) for purposes of Section 15(d) only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee’s rights under this Agreement, by litigation or otherwise. The parties agree that for the purposes of any advancement of Expenses for which Indemnitee has made written demand to the Company in accordance with this Agreement, all Expenses included in such demand that are certified by affidavit of Indemnitee’s counsel as being reasonable shall be

presumed conclusively to be reasonable. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) “Independent Counsel” shall mean a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement. The Company agrees to pay the reasonable fees and expenses of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(h) The term “Organizational Documents” shall mean the Restated Articles of Incorporation of the Company and the Amended and Restated Bylaws of the Company, in each case as amended from time to time.

(i) The term “Proceeding” shall include any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative, legislative, or investigative (formal or informal) nature, including any appeal therefrom, in which Indemnitee was, is or will be involved as a party, potential party, non-party witness or otherwise by reason of the fact that Indemnitee is or was a director or officer of the Company, by reason of any action taken by him (or a failure to take action by him) or of any action (or failure to act) on his part while acting pursuant to his Corporate Status, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification, reimbursement, or advancement of Expenses can be provided under this Agreement. If the Indemnitee believes in good faith that a given situation

may lead to or culminate in the institution of a Proceeding, this shall be considered a Proceeding under this paragraph.

- (j) The term “Sarbanes-Oxley Act” shall mean the Sarbanes-Oxley Act of 2002, as amended from time to time.
- (k) The term “TBOC” shall mean the Texas Business Organizations Code, as amended from time to time.
- (l) The term “Texas Court” shall mean the courts of the State of Texas located in Houston, Texas.

(m) Reference to “other enterprise” shall include employee benefit plans; references to “finer” shall include any excise tax assessed with respect to any employee benefit plan; references to “serving at the request of the Company” shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in manner “not opposed to the best interests of the Company” as referred to in this Agreement.

Section 3. Indemnity in Third-Party Proceedings. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments, fines and amounts paid in settlement) actually and reasonably incurred by Indemnitee or on his behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company and, in the case of a criminal Proceeding had no reasonable cause to believe that his conduct was unlawful. The parties hereto intend that this Agreement shall provide to the fullest extent permitted by law for indemnification in excess of that expressly permitted by statute, including, without limitation, any indemnification provided by the Organizational Documents, vote of the Company’s stockholders or Disinterested Directors or applicable law.

Section 4. Indemnity in Proceedings by or in the Right of the Company. The Company shall indemnify Indemnitee in accordance with the provisions of this Section 4 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 4, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses actually and reasonably incurred by him or on his behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company. No

indemnification for Expenses shall be made under this Section 4 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Company, unless and only to the extent that a Texas Court or any other court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification.

Section 5. Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provisions of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is a party to (or a participant in) and is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or on his behalf in connection with or related to each successfully resolved claim, issue or matter to the fullest extent permitted by law. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 6. Indemnification For Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is, by reason of his Corporate Status, a witness or otherwise asked to participate in any Proceeding to which Indemnitee is not a party, he shall be indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith.

Section 7. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

Section 8. Additional Indemnification.

(a) Notwithstanding any limitation in Section 3, Section 4, or Section 5, the Company shall indemnify Indemnitee to the fullest extent permitted by applicable law if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) against all Expenses, judgments, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of such Expenses, judgments,

finest and amounts paid in settlement) actually and reasonably incurred by Indemnitee in connection with the Proceeding.

(b) For purposes of Section 8(a), the meaning of the phrase “to the fullest extent permitted by applicable law” shall include, but not be limited to:

i. to the fullest extent permitted by the provision of the TBOC that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the TBOC, and

ii. to the fullest extent authorized or permitted by any amendments to or replacements of the TBOC adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

Section 9. NOTICE OF ASSUMPTION OF LIABILITY. THE COMPANY EXPRESSLY ACKNOWLEDGES THAT THE INDEMNITIES CONTAINED IN THIS AGREEMENT REQUIRE ASSUMPTION OF LIABILITY PREDICATED ON THE NEGLIGENCE, GROSS NEGLIGENCE, OR CONDUCT RESULTING IN STRICT LIABILITY OF INDEMNITEE, AND THE COMPANY ACKNOWLEDGES THAT THIS SECTION 9 COMPLIES WITH ANY REQUIREMENT TO EXPRESSLY STATE LIABILITY FOR NEGLIGENCE, GROSS NEGLIGENCE, OR CONDUCT RESULTING IN STRICT LIABILITY IS CONSPICUOUS AND AFFORDS FAIR AND ADEQUATE NOTICE.

Section 10. Exclusions. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnification payment in connection with any claim made against Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision; or

(b) for (i) an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act (as defined in Section 2(b) hereof) or similar provisions of state statutory law or common law, or (ii) any reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act); or

(c) except as provided in Section 15(d) of this Agreement, in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the

Proceeding (or any part of any Proceeding) prior to its initiation or (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law.

Section 11. Advances of Expenses. Notwithstanding any provision of this Agreement to the contrary (other than Section 15(d)), the Company shall advance, to the extent not prohibited by law, the Expenses incurred by Indemnitee in connection with any Proceeding (or any part of any Proceeding) not initiated by Indemnitee, and such advancement shall be made within thirty (30) days after the receipt by the Company of a statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement. In accordance with Section 15(d), advances shall include any and all reasonable Expenses incurred pursuing an action to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Company to support the advances claimed. The Indemnitee shall qualify for advances upon the execution and delivery to the Company of this Agreement, which shall constitute an undertaking providing that the Indemnitee undertakes to repay the amounts advanced (without interest) to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Company. No other form of undertaking shall be required other than the execution of this Agreement. This Section 11 shall not apply to any claim made by Indemnitee for which indemnity is excluded pursuant to Section 10.

Section 12. Procedure for Notification and Defense of Claim.

(a) Indemnitee shall notify the Company in writing of any matter with respect to which Indemnitee intends to seek indemnification or advancement of Expenses hereunder as soon as reasonably practicable following the receipt by Indemnitee of written notice thereof. The written notification to the Company shall include a description of the nature of the Proceeding and the facts underlying the Proceeding. To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such Proceeding. The omission by Indemnitee to notify the Company hereunder will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay in so notifying the Company shall not constitute a waiver by Indemnitee of any rights under this Agreement. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

Section 13. Procedure Upon Application for Indemnification.

(a) Upon written request by Indemnitee for indemnification pursuant to Section 12(a), a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall be made in the specific case: (i) if a Change in Control shall have occurred, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee; or (ii) if a Change in Control shall not have occurred, (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee or (D) if so directed by the Board, by the stockholders of the Company; and, if it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten (10) days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or Expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom. The Company promptly will advise Indemnitee in writing with respect to any determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied.

(b) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 13(a) hereof, the Independent Counsel shall be selected as provided in this Section 13(b). If a Change in Control shall not have occurred, the Independent Counsel shall be selected by the Board, and the Company shall give written notice to Indemnitee advising him of the identity of the Independent Counsel so selected. If a Change in Control shall have occurred, the Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Board, in which event the preceding sentence shall apply), and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either event, Indemnitee or the Company, as the case may be, may, within ten (10) days after such written notice of selection shall have been given, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or the Texas Court has determined that such objection is without merit.

If, within twenty (20) days after the later of submission by Indemnitee of a written request for indemnification pursuant to Section 12(a) hereof and the final disposition of the Proceeding, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition the Texas Court for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by such court or by such other person as such court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 13(a) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 15(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

Section 14. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall, to the fullest extent not prohibited by law, presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 12(a) of this Agreement, and the Company shall, to the fullest extent not prohibited by law, have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Company (including by its directors or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or Independent Counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) Subject to Section 15(e), if the person, persons or entity empowered or selected under Section 13 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall, to the fullest extent not prohibited by law, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 13(b) shall not apply (i) if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 13(a) of this Agreement and if (A) within fifteen

(15) days after receipt by the Company of the request for such determination the Board has resolved to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy-five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat, or (ii) if the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 13(a) of this Agreement.

(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that his conduct was unlawful.

(d) For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the directors or officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with the reasonable care by the Enterprise. The provisions of this Section 14(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) The knowledge and/or actions, or failure to act, of any director, officer, trustee, partner, managing member, fiduciary, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

Section 15. Remedies of Indemnitee.

(a) Subject to Section 15(e), in the event that (i) a determination is made pursuant to Section 13 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 11 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 13(a) of this Agreement within ninety (90) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 5, Section 6 or Section 7 or the last sentence of Section 13(a) of this Agreement within ten (10) days after receipt by the Company of a written request therefor, (v) payment of indemnification pursuant to Section 3, Section 4 or Section 8 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, or (vi) the Company or any other person takes or threatens to take any action to

declare this Agreement void or unenforceable, or institutes any litigation or other action or Proceeding designed to deny, or to recover from, the Indemnitee the benefits provided or intended to be provided to the Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of his entitlement to such indemnification or advancement of Expenses. Alternatively, Indemnitee, at his option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 15(a); provided, however, that the foregoing clause shall not apply in respect of a proceeding brought by Indemnitee to enforce his rights under Section 5 of this Agreement. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 13(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 15 shall be conducted in all respects as a de novo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 15 the Company shall have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) If a determination shall have been made pursuant to Section 13(a) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 15, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) The Company shall, to the fullest extent not prohibited by law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 15 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. It is the intent of the Company that, to the fullest extent permitted by law, the Indemnitee not be required to incur legal fees or other Expenses associated with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to the Indemnitee hereunder. The Company shall, to the fullest extent permitted by law, indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefor) advance, to the extent not prohibited by law, such Expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advance of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company if, in the case of indemnification, Indemnitee is wholly successful on the underlying claims; if Indemnitee is not wholly successful on the underlying claims, then such

indemnification shall be only to the extent Indemnatee is successful on such underlying claims or otherwise as permitted by law, whichever is greater.

(e) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement of Indemnatee to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding.

Section 16. Non-exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and to receive advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnatee may at any time be entitled under applicable law, the Organizational Documents, any agreement, a vote of stockholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnatee under this Agreement in respect of any action taken or omitted by such Indemnatee in his Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in Texas law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Organizational Documents and this Agreement, it is the intent of the parties hereto that Indemnatee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents of the Enterprise, Indemnatee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such claim or of the commencement of a Proceeding, as the case may be, to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnatee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnatee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable (or for which advancement is provided hereunder)

hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(e) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, trustee, partner, managing member, fiduciary, employee or agent of any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan, organization or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of Expenses from such other corporation, limited liability company, partnership, joint venture, trust, organization or other enterprise.

Section 17. Duration of Agreement. This Agreement shall continue until and terminate upon the later of: (a) ten (10) years after the date that Indemnitee shall have ceased to serve as a director and officer of the Company or (b) one (1) year after the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 15 of this Agreement relating thereto. The indemnification and advancement of Expenses rights provided by or granted pursuant to this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or of any other Enterprise, and shall inure to the benefit of Indemnitee and his or her spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

Section 18. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 19. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to

serve as a director or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director or officer of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; provided, however, that this Agreement is a supplement to and in furtherance of the Organizational Documents and applicable law, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder.

Section 20. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement nor shall any waiver constitute a continuing waiver.

Section 21. Notice by Indemnitee. Indemnitee agrees to promptly notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company shall not relieve the Company of any obligation which it may have to the Indemnitee under this Agreement or otherwise.

Section 22. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, (b) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed, (c) mailed by reputable overnight courier and receipted for by the party to whom said notice or other communication shall have been directed or (d) sent by facsimile transmission, with receipt of oral confirmation that such transmission has been received:

(a) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee shall provide to the Company.

(b) If to the Company to:

DXP Enterprises, Inc.
5301 Hollister St.
Houston, Texas 77040
Attention: Kent Yee

or to any other address as may have been furnished to Indemnitee by the Company.

Section 23. Contribution. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount

incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

Section 24. Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 15(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Texas Court and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Texas Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) waive any objection to the laying of venue of any such action or proceeding in the Texas Court, and (iv) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Texas Court has been brought in an improper or inconvenient forum.

Section 25. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

Section 26. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. The headings of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the date first above written.

DXP Enterprises, Inc.

Indemnitee

Name:

Title:

Name:

Address:

[Signature Page to Indemnification Agreement]

Exhibit 22.1

The following is a listing of subsidiaries that guarantee the DXP Enterprises, Inc. Credit Facilities (the "ABL Revolver" and "Term Loan B Agreement") issued by DXP Enterprises, Inc.

SUBSIDIARY GUARANTORS OF GUARANTEED SECURITIES

DXP Acquisition, Inc DBA Strategic Supply, Inc.(NV)

Pelican State Supply Company, Inc.(NV)

Quadna De Mexico, SA DE CV (Mexico)

Pumping Solutions, Inc.(CA)

Pumping Solutions AZ, Inc.(AZ)

Maverick Pumps Inc.(AZ)

Pump PMI, LLC(DE)

PMI Investment, LLC (DE)

Total Equipment Company (PA)

APO Pumps & Compressors LLC (DE)

Process Machinery, Inc. (AL)

Premier Water, LLC (NC)

DXP Holdings, Inc. (TX)

Corporate Equipment Company, LLC (OH)

Carter & Verplanck, LLC (FL)

B27 Resources, Inc. (TX)

Best Holding, LLC (DE)

DXP Enterprises, LTD (Canada)

CERTIFICATION

I, David R. Little, certify that:

1. I have reviewed this report on Form 10-Q of DXP Enterprises, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

May 13, 2022

/s/ David R. Little

David R. Little

President and Chief Executive Officer

(Principal Executive Officer)

CERTIFICATION

I, Kent Yee, certify that:

1. I have reviewed this report on Form 10-Q of DXP Enterprises, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

May 13, 2022

/s/ Kent Yee

Kent Yee
Senior Vice President and Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION

Pursuant to 18 U.S.C. Section 1350, the undersigned officer of DXP Enterprises, Inc. (the "Company"), hereby certifies that, to my knowledge, the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ David R. Little

David R. Little

President and Chief Executive Officer

(Principal Executive Officer)

May 13, 2022

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, and is not being filed as part of the Report or as a separate disclosure document.

Exhibit 32.2

CERTIFICATION

Pursuant to 18 U.S.C. Section 1350, the undersigned officer of DXP Enterprises, Inc. (the "Company"), hereby certifies that, to my knowledge, the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Kent Yee

Kent Yee

Senior Vice President and Chief Financial Officer

(Principal Financial Officer)

May 13, 2022

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, and is not being filed as part of the Report or as a separate disclosure document.