

**THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE SECOND AMENDED JOINT CHAPTER 11 PLAN FOR RATHGIBSON, INC., ET AL., DATED AS OF MARCH 8, 2010. ACCEPTANCES OR REJECTIONS WITH RESPECT TO THE PLAN MAY NOT BE SOLICITED UNTIL THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT.**

**A HEARING TO CONSIDER THE ADEQUACY OF THIS DISCLOSURE STATEMENT UNDER SECTION 1125 OF THE BANKRUPTCY CODE HAS BEEN SET BY THE BANKRUPTCY COURT FOR APRIL 9, 2010 AT 2:00 P.M. (PREVAILING EASTERN TIME). THE DEBTORS RESERVE THE RIGHT TO AMEND, SUPPLEMENT OR OTHERWISE MODIFY FROM TIME TO TIME THIS DISCLOSURE STATEMENT PRIOR TO AND UP TO THE DATE OF SUCH HEARING.**

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

|                                   |   |                         |
|-----------------------------------|---|-------------------------|
| In re                             | ) | Chapter 11              |
| RathGibson, Inc., <u>et al.</u> , | ) | Case No. 09-12452 (CSS) |
| Debtors.                          | ) | Jointly Administered    |

**DISCLOSURE STATEMENT FOR SECOND AMENDED  
JOINT CHAPTER 11 PLAN FOR RATHGIBSON, INC., ET AL.**

Dated: Wilmington, Delaware  
March 8, 2010

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## IMPORTANT NOTICE

THIS DISCLOSURE STATEMENT AND ITS RELATED DOCUMENTS ARE THE ONLY DOCUMENTS AUTHORIZED BY THE BANKRUPTCY COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES TO ACCEPT THE SECOND AMENDED JOINT CHAPTER 11 PLAN FOR RATHGIBSON, INC., ET AL. (THE "SECOND AMENDED PLAN"). NO REPRESENTATIONS HAVE BEEN AUTHORIZED BY THE BANKRUPTCY COURT CONCERNING THE DEBTORS, THEIR BUSINESS OPERATIONS OR THE VALUE OF THEIR ASSETS, EXCEPT AS EXPLICITLY SET FORTH IN THIS DISCLOSURE STATEMENT.

THE DEBTORS URGE YOU TO READ THIS DISCLOSURE STATEMENT CAREFULLY FOR A DISCUSSION OF VOTING INSTRUCTIONS, RECOVERY INFORMATION, CLASSIFICATION OF CLAIMS, THE HISTORY OF THE DEBTORS AND THE CHAPTER 11 CASES, THE DEBTORS' BUSINESSES, PROPERTIES AND RESULTS OF OPERATIONS, HISTORICAL AND PROJECTED FINANCIAL RESULTS AND A SUMMARY AND ANALYSIS OF THE SECOND AMENDED PLAN.

ALL CAPITALIZED TERMS IN THIS DISCLOSURE STATEMENT NOT OTHERWISE DEFINED HEREIN HAVE THE MEANINGS GIVEN TO THEM IN THE SECOND AMENDED PLAN, A COPY OF WHICH IS ATTACHED TO THIS DISCLOSURE STATEMENT AS EXHIBIT 1.

INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. THE DEBTORS RESERVE THE RIGHT TO FILE A FURTHER AMENDED PLAN AND RELATED DISCLOSURE STATEMENT FROM TIME TO TIME, SUBJECT TO THE TERMS OF THE SECOND AMENDED PLAN. THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE AN OFFER TO SELL, OR THE SOLICITATION OF AN OFFER TO BUY, NOR WILL THERE BE ANY DISTRIBUTION OF ANY OF THE SECURITIES DESCRIBED HEREIN UNTIL THE EFFECTIVE DATE OF THE SECOND AMENDED PLAN.

THE SECOND AMENDED PLAN AND THIS DISCLOSURE STATEMENT HAVE NOT BEEN REQUIRED TO BE PREPARED IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER APPLICABLE NONBANKRUPTCY LAW. DISSEMINATION OF THIS DISCLOSURE STATEMENT IS CONTROLLED BY BANKRUPTCY RULE 3017. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. PERSONS TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING SECURITIES OF THE DEBTORS SHOULD EVALUATE THE SECOND AMENDED PLAN IN LIGHT OF THE PURPOSES FOR WHICH IT WAS PREPARED.

THIS DISCLOSURE STATEMENT CONTAINS ONLY A SUMMARY OF THE SECOND AMENDED PLAN. THIS DISCLOSURE STATEMENT IS NOT INTENDED TO REPLACE THE CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE SECOND AMENDED PLAN, ONLY TO AID AND SUPPLEMENT SUCH REVIEW. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE SECOND AMENDED PLAN, THE PLAN SUPPLEMENT AND THE EXHIBITS ATTACHED THERETO AND THE AGREEMENTS AND DOCUMENTS DESCRIBED THEREIN. IF THERE IS A CONFLICT BETWEEN THE SECOND AMENDED PLAN AND THIS DISCLOSURE STATEMENT, THE PROVISIONS OF THE SECOND AMENDED PLAN WILL GOVERN. YOU ARE ENCOURAGED TO REVIEW THE FULL TEXT OF THE SECOND AMENDED PLAN AND PLAN SUPPLEMENT AND TO READ CAREFULLY THE ENTIRE DISCLOSURE STATEMENT, INCLUDING ALL EXHIBITS, BEFORE DECIDING HOW TO VOTE WITH RESPECT TO THE SECOND AMENDED PLAN.

THE VOTING DEADLINE TO ACCEPT OR REJECT THE SECOND AMENDED PLAN IS **4:00 P.M. (PREVAILING EASTERN TIME) ON MAY 11, 2010**, UNLESS EXTENDED BY THE DEBTORS (THE "**VOTING DEADLINE**"). TO BE COUNTED, BALLOTS MUST BE RECEIVED BY THE VOTING AGENT (AS DEFINED HEREIN) ON OR BEFORE THE VOTING DEADLINE.

THE CONFIRMATION AND EFFECTIVENESS OF THE SECOND AMENDED PLAN ARE SUBJECT TO MATERIAL CONDITIONS PRECEDENT. THERE IS NO ASSURANCE THAT THESE CONDITIONS WILL BE SATISFIED OR WAIVED.

THE SECOND AMENDED PLAN IS PREMISED ON A SALE TO EITHER THE STALKING HORSE BIDDER OR SUCH OTHER SUCCESSFUL BIDDER AS MAY BE CHOSEN AT THE CONCLUSION OF THE AUCTION AND APPROVED BY THE BANKRUPTCY COURT AT THE CONFIRMATION HEARING. THE PLAN AS FILED PROVIDES THAT THE PROCEEDS OF THE SALE TO THE STALKING HORSE BIDDER WILL BE USED TO PAY THOSE CLAIMS AND INTERESTS AS SET FORTH HEREIN; ANY CLAIM THAT IS AN ASSUMED LIABILITY SHALL BE ASSUMED BY THE PURCHASER AND THE PURCHASER SHALL BE RESPONSIBLE THEREFOR IN ACCORDANCE WITH THE TERMS OF THE APA AND THE HOLDER THEREOF SHALL HAVE NO RECOURSE AGAINST THE DEBTORS OR THE PLAN ADMINISTRATOR OR ANY OF THEIR PROPERTY ON ACCOUNT OF SUCH CLAIM. THE STALKING HORSE BID WILL BE SUBJECT TO HIGHER OR OTHERWISE BETTER BIDS AT THE AUCTION. HOWEVER, FOR ANY BID TO BE CHOSEN AS THE HIGHEST OR OTHERWISE BEST BID, THAT BIDDER MUST PROVIDE A BID THAT OFFERS CONSIDERATION SUFFICIENT TO SATISFY ALL CLAIMS REQUIRED TO BE SATISFIED TO CONFIRM A CHAPTER 11 PLAN. IF ANY POTENTIAL BIDDER PROVIDES A BID THAT WILL NOT FUND A CONFIRMABLE CHAPTER 11 PLAN, SUCH BID WILL NOT BE CHOSEN AS THE HIGHEST OR OTHERWISE BEST BID. THE DEBTORS PRESENTLY CANNOT INFORM CREDITORS EITHER IF ANOTHER BIDDER WILL BE CHOSEN AS THE SUCCESSFUL BIDDER OR THE TERMS THAT SUCH BIDDER MAY PROPOSE. HOWEVER, THE STALKING HORSE BIDDER PROVIDES A FLOOR THAT ANY SUCCESSFUL BIDDER MUST "TOP". TO "TOP" THE STALKING HORSE BID, A BIDDER MUST SUBMIT A HIGHER OR OTHERWISE BETTER OFFER IN ACCORDANCE WITH THE BID PROCEDURES. IN ORDER FOR CREDITORS TO RECEIVE ANY DISTRIBUTIONS FROM EITHER THE STALKING HORSE BID OR ANY OTHER SUCCESSFUL BID, THE SECOND AMENDED PLAN MUST BE APPROVED, CONFIRMED AND CONSUMMATED.

IF THE SECOND AMENDED PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AGAINST, AND HOLDERS OF INTERESTS IN, THE DEBTORS (INCLUDING, WITHOUT LIMITATION, THOSE HOLDERS OF CLAIMS OR INTERESTS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE SECOND AMENDED PLAN OR WHO ARE NOT ENTITLED TO VOTE ON THE SECOND AMENDED PLAN) WILL BE BOUND BY THE TERMS OF THE SECOND AMENDED PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.

THIS DISCLOSURE STATEMENT HAS NOT BEEN FILED WITH, OR REVIEWED BY THE SECURITIES AND EXCHANGE COMMISSION (THE "**SEC**") UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR WITH ANY OTHER SECURITIES REGULATORY AUTHORITY OF ANY STATE UNDER ANY STATE SECURITIES OR "BLUE SKY" LAWS. THE SECOND AMENDED PLAN HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SEC, ANY OTHER SECURITIES REGULATORY AUTHORITY, OR ANY STATE SECURITIES COMMISSION, AND NEITHER THE SEC NOR ANY STATE SECURITIES COMMISSION HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION

CONTAINED HEREIN. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN OFFER OR SOLICITATION IN ANY STATE OR OTHER JURISDICTION IN WHICH SUCH OFFER OR SOLICITATION IS NOT AUTHORIZED.

EXCEPT AS OTHERWISE SET FORTH HEREIN, THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE BY THE DEBTORS AS OF THE DATE HEREOF, AND THE DELIVERY OF THIS DISCLOSURE STATEMENT WILL NOT, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME SUBSEQUENT TO THE DATE HEREOF OR CREATE ANY DUTY TO UPDATE SUCH INFORMATION.

NO PERSON HAS BEEN AUTHORIZED BY THE DEBTORS IN CONNECTION WITH THE SECOND AMENDED PLAN OR THE SOLICITATION TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT, THE SECOND AMENDED PLAN AND THE EXHIBITS AND SCHEDULES ATTACHED TO OR INCORPORATED BY REFERENCE OR REFERRED TO IN THIS DISCLOSURE STATEMENT AND/OR THE SECOND AMENDED PLAN, AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MAY NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE DEBTORS.

THIS DISCLOSURE STATEMENT MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE WHETHER TO VOTE TO ACCEPT OR REJECT THE SECOND AMENDED PLAN, AND NOTHING STATED HEREIN SHALL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PERSON, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PERSON, OR BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE SECOND AMENDED PLAN ON THE DEBTORS OR HOLDERS OF CLAIMS OR INTERESTS.

HOLDERS OF CLAIMS OR INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS WITH RESPECT TO ANY SUCH MATTERS CONCERNING THIS DISCLOSURE STATEMENT, THE SOLICITATION OF VOTES TO ACCEPT THE SECOND AMENDED PLAN, THE SECOND AMENDED PLAN, THE PLAN DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY.

**THE DEBTORS SUPPORT CONFIRMATION OF THE SECOND AMENDED PLAN AND URGE ALL HOLDERS OF CLAIMS WHOSE VOTES ARE BEING SOLICITED TO ACCEPT THE SECOND AMENDED PLAN. AS SET FORTH IN THE LETTER FROM THE CREDITORS' COMMITTEE ACCOMPANYING THE DISCLOSURE STATEMENT, THE CREDITORS' COMMITTEE SUPPORTS THE PLAN AND URGES UNSECURED CREDITORS TO VOTE IN FAVOR OF THE PLAN.**

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Annexed as Exhibits to this Disclosure Statement are copies of the following documents:

- Plan (Exhibit 1);
- Liquidation Analysis (Exhibit 2);
- Disclosure Statement Order (without exhibits) (Exhibit 3);
- Stalking Horse Agreement (Exhibit 4);
- Bid Procedures Order (without exhibits) (Exhibit 5); and
- Summary of Asset Purchase Agreement (Exhibit 6).



## ARTICLE I.

### INTRODUCTION

#### 1.1 *General.*

Debtors RathGibson, Inc., Greenville Tube Company, RG Tube Holdings LLC, and RGCH Holdings Corp., transmit this Disclosure Statement pursuant to section 1125 of the Bankruptcy Code, in connection with the Debtors' solicitation of votes (the "**Solicitation**") to confirm the Second Amended Joint Chapter 11 Plan for RathGibson, Inc., et al., dated as of March 8, 2010.

As described further below, the Second Amended Plan modifies and amends certain portions of the First Amended Plan (as defined below), which was sent to holders of Claims against RathGibson and Greenville for voting in September 2009. The purpose of this Disclosure Statement is to provide information concerning such modifications and amendments to the First Amended Plan.

*All Plan Documents are subject to revision and modification from time to time prior to the Effective Date (subject to the terms of the Second Amended Plan), which may result in material changes to the terms of the Plan Documents.* On the Effective Date, all Plan Documents and all other agreements entered into or instruments issued in connection with any Plan Document, shall become effective and binding in accordance with their respective terms and conditions upon the parties thereto and shall be deemed to become effective simultaneously.

On [\_\_\_\_\_], 2010, after notice and a hearing, the Bankruptcy Court entered an order (the "**Disclosure Statement Order**"), which, among other things: (i) approved this Disclosure Statement as containing "adequate information" to enable a hypothetical, reasonable investor typical of holders of Claims against or Interests in the Debtors to make an informed judgment as to whether to accept or reject the Second Amended Plan; and (ii) authorized the Debtors to use this Disclosure Statement in connection with the solicitation of votes to accept or reject the Second Amended Plan. **The Disclosure Statement Order establishes May 11, 2010 at 4:00 p.m. (prevailing Eastern Time) as the Voting Deadline for the return of Ballots accepting or rejecting the Second Amended Plan. APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT, HOWEVER, CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR MERITS OF THE SECOND AMENDED PLAN.**

The Disclosure Statement Order sets forth in detail the deadlines, procedures and instructions for voting to accept or reject the Second Amended Plan, and for filing objections to confirmation of the Second Amended Plan, the record date for voting purposes and the applicable standards for tabulating Ballots. In addition, detailed voting instructions accompany each Ballot. Each holder of a Claim and an Interest entitled to vote on the Second Amended Plan should read this Disclosure Statement and the Exhibits hereto, including the Second Amended Plan and the Disclosure Statement Order, as well as the instructions accompanying the Ballot in their entirety before voting on the Second Amended Plan. These documents contain important information concerning the classification of Claims and Interests for voting purposes

and the tabulation of votes. No solicitation of votes may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. In voting on the Second Amended Plan, holders of Claims and Interests entitled to vote should not rely on any information relating to the Debtors and their businesses other than the information contained in this Disclosure Statement, the Second Amended Plan and all Exhibits hereto and thereto.

**THE DEBTORS AND THE CREDITORS' COMMITTEE RECOMMEND THAT HOLDERS OF CLAIMS AND INTERESTS IN CLASSES 3(b), 4(a), 5(a), 5(b), 6(a) AND 6(b) VOTE TO ACCEPT THE SECOND AMENDED PLAN, AS THE SECOND AMENDED PLAN PROVIDES FOR THE BEST AVAILABLE RECOVERY TO CREDITORS AND INTEREST HOLDERS IN SUCH CLASSES.**

THIS DISCLOSURE STATEMENT IS NOT INTENDED TO REPLACE A CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE SECOND AMENDED PLAN. THIS DISCLOSURE STATEMENT IS INTENDED TO AID AND SUPPLEMENT THAT REVIEW. THE DESCRIPTION OF THE SECOND AMENDED PLAN HEREIN IS ONLY A SUMMARY. HOLDERS OF CLAIMS AND INTERESTS AND OTHER PARTIES-IN-INTEREST ARE CAUTIONED TO REVIEW THE SECOND AMENDED PLAN AND ANY RELATED EXHIBITS AND ATTACHMENTS FOR A FULL UNDERSTANDING OF THE SECOND AMENDED PLAN'S PROVISIONS. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE SECOND AMENDED PLAN.

Additional copies of this Disclosure Statement (including the Exhibits hereto) are available upon request made to the Debtors' Claims Agent, The Garden City Group, Inc. ("**Garden City**"), P.O. Box 9396, Dublin, Ohio 43017-4296, Attn: RGI Bankruptcy Administration (888)-282-1244. Additional copies of this Disclosure Statement (including the Exhibits hereto) can also be accessed free of charge from the following website: <http://www.rathrestructuring.com>.

In addition, a Ballot for voting to accept or reject the Second Amended Plan is enclosed with this Disclosure Statement for the holders of Claims and Interests that are entitled to vote to accept or reject the Second Amended Plan. If you are a holder of a Claim entitled to vote on the Second Amended Plan and did not receive a Ballot, received a damaged Ballot or lost your Ballot, or if you have any questions concerning the procedures for voting on the Second Amended Plan, please contact Garden City at the address above.

Each holder of a Claim or an Interest entitled to vote on the Second Amended Plan should read this Disclosure Statement, the Second Amended Plan, the other Exhibits attached hereto and the instructions accompanying the Ballots in their entirety before voting on the Second Amended Plan. These documents contain important information concerning the classification of Claims and Interests for voting purposes and the tabulation of votes.

## **1.2 *The Confirmation Hearing.***

In accordance with the Disclosure Statement Order and section 1128 of the Bankruptcy Code, a hearing will be held before the Honorable Christopher S. Sontchi, United States Bankruptcy Judge for the District of Delaware, United States Bankruptcy Court,

Courtroom 6, 824 North Market Street, 5th Floor, Wilmington, Delaware 19801 on **May 21, 2010 at 1:00 p.m. (prevailing Eastern Time)**, to consider confirmation of the Second Amended Plan, which includes approval of the sale of all or substantially all of the Debtors' assets. The Debtors will request confirmation of the Second Amended Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code, and they have reserved the right to modify the Second Amended Plan to the extent, if any, that confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, subject to the terms of the Second Amended Plan. Objections, if any, to confirmation of the Second Amended Plan must be served and filed so that they are received on or before **May 11, 2010, at 4:00 p.m. (prevailing Eastern Time)**, in the manner set forth in the Disclosure Statement Order. The hearing on confirmation of the Second Amended Plan, may be adjourned from time to time without further notice except for the announcement of the adjourned date and time at the hearing on confirmation or any adjournment thereof.

At the Confirmation Hearing, the Bankruptcy Court will, among other things:

- determine whether sufficient majorities in number and amount from each Class entitled to vote have delivered properly executed votes accepting the Second Amended Plan to approve the Second Amended Plan;
- hear and determine objections, if any, to the Second Amended Plan and to confirmation of the Second Amended Plan that have not been previously disposed of;
- determine whether the Second Amended Plan meets the confirmation requirements of the Bankruptcy Code; and
- determine whether to confirm the Second Amended Plan.

### **1.3 Classification of Claims and Interests.**

The following table designates the Classes of Claims against and Interests in the Debtors, and specifies which Classes are: (a) impaired or unimpaired by the Second Amended Plan, (b) entitled to vote to accept or reject the Second Amended Plan in accordance with section 1126 of the Bankruptcy Code, or (c) deemed to accept or reject the Second Amended Plan.

| Class              | Designation                                 | Impairment       | Entitled to Vote       |
|--------------------|---|------------------|------------------------|
| <i>All Debtors</i> |   |                  |                        |
| Class 1            | Priority Non-Tax Claims                     | No               | No (Deemed to accept)  |
| Class 2            | Other Secured Claims                        | No               | No (Deemed to accept)  |
| <i>RathGibson</i>  |   |                  |                        |
| Class 3(a)         | Prepetition Secured Credit Agreement Claims | No               | No (Deemed to accept)  |
| Class 3(b)         | Rath General Unsecured Claims               | Yes              | Yes                    |
| Class 3(c)         | Existing Rath Interests                     | Yes              | No (Deemed to accept)* |
| <i>Greenville</i>  |   |                  |                        |
| Class 4(a)         | Greenville General Unsecured Claims         | Yes              | Yes                    |
| Class 4(b)         | Existing Greenville Interests               | Yes              | No (Deemed to accept)* |
| <i>RGCH</i>        |   |                  |                        |
| Class 5(a)         | RGCH PIK Notes Claims                       | Yes              | Yes                    |
| Class 5(b)         | RGCH General Unsecured Claims               | Yes              | Yes                    |
| Class 5(c)         | Existing RGCH Interests                     | Yes              | No (Deemed to accept)* |
| <i>RG Tube</i>     |   |                  |                        |
| Class 6(a)         | RG Tube General Unsecured Claims            | Yes <sup>1</sup> | Yes                    |
| Class 6(b)         | Existing RG Tube Interests                  | Yes              | Yes                    |

#### 1.4 *Voting; Holders of Claims Entitled to Vote.*

Pursuant to the provisions of the Bankruptcy Code, only holders of allowed claims or equity interests in classes of claims or equity interests that are impaired and that are not deemed to have rejected a chapter 11 plan are entitled to vote to accept or reject such proposed plan. Generally, a claim or interest is impaired under a plan if the holder's legal, equitable or contractual rights are altered under such plan. Classes of claims or equity interests under a chapter 11 plan in which the holders of claims or equity interests are unimpaired are deemed to have accepted such plan and are not entitled to vote to accept or reject the proposed plan. In addition, classes of claims or equity interests (excluding those interest holders that are plan proponents herein) in which the holders of claims or equity interests will not receive or retain any property on account of their claims or equity interests are deemed to have rejected the chapter 11 plan and are not entitled to vote to accept or reject such plan.

\* See section 4.3(b) *infra*.

<sup>1</sup> The Debtors do not believe there will be any Allowed RG Tube General Unsecured Claims. Thus, while the Debtors believe that the Class 6(a) Distribution of \$310,000 will be sufficient to satisfy all Allowed RG Tube General Unsecured Claims in full, because the Class 6(a) Distribution is limited in amount, out of an abundance of caution, Class 6(a) is deemed to be impaired under the Plan.

In connection with the Second Amended Plan:

- Claims and Interests in Classes 3(b), 4(a), 5(a), 5(b), 6(a) and 6(b) are impaired, will receive a distribution on account of such Claims to the extent provided in the Second Amended Plan and are entitled to vote to accept or reject the Second Amended Plan;
- Claims in Classes 1, 2 and 3(a) are unimpaired and, as a result, holders of such Claims are deemed to have accepted the Second Amended Plan and are not entitled to vote to accept or reject the Second Amended Plan; and
- Interests in Classes 3(c), 4(b) and 5(c) are impaired, but because the holders of such Interests are proponents of the Second Amended Plan and, thus, have consented to the filing of the Second Amended Plan and approval of the treatment afforded to such holders thereunder, such Classes are deemed to have accepted the Second Amended Plan and are not entitled to vote to accept or reject the Second Amended Plan.

The Bankruptcy Code defines “acceptance” of a plan: (a) by a class of claims as acceptance by creditors in that class that hold at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the claims that cast ballots for acceptance or rejection of the chapter 11 plan; and (b) by a class of interests as acceptance by interest holders in that class that hold at least two-thirds (2/3) in amount of the interests that cast ballots for acceptance or rejection of the chapter 11 plan. **Your vote on the Second Amended Plan is important.** The Bankruptcy Code requires as a condition to confirmation of the chapter 11 plan that each class that is impaired and entitled to vote under a plan vote to accept such plan, unless the provisions of section 1129(b) of the Bankruptcy Code are met.

If a Class of Claims or Interests entitled to vote on the Second Amended Plan rejects the Second Amended Plan, the Debtors reserve the right to amend the Second Amended Plan and/or to request confirmation of the Second Amended Plan pursuant to section 1129(b) of the Bankruptcy Code. Section 1129(b) of the Bankruptcy Code permits the confirmation of a chapter 11 plan notwithstanding the non-acceptance of such plan by one or more impaired classes of claims or equity interests, so long as at least one impaired class of claims or interests votes to accept such plan. Under that section, a chapter 11 plan may be confirmed by a bankruptcy court if it does not “discriminate unfairly” and is “fair and equitable” with respect to each non-accepting class.

If you are entitled to vote to accept or reject the Second Amended Plan, a Ballot is enclosed for the purpose of voting on the Second Amended Plan. This Disclosure Statement, the Exhibits attached hereto, the Second Amended Plan and the related documents are the only materials the Debtors are providing to creditors and interest holders for their use in determining whether to vote to accept or reject the Second Amended Plan, and such materials may not be relied upon or used for any purpose other than to vote to accept or reject the Second Amended Plan.

Please complete and sign your Ballot(s), and unless you are sending your Ballot to an Intermediary for inclusion in a master Ballot, return to the Debtors' claims and voting agent (the "**Voting Agent**") at the address below:

RGI Bankruptcy Administration  
c/o The Garden City Group, Inc.  
PO Box 9396  
Dublin, Ohio 43017-4296

TO BE COUNTED, YOUR ORIGINAL BALLOT INDICATING ACCEPTANCE OR REJECTION OF THE SECOND AMENDED PLAN MUST BE ACTUALLY RECEIVED BY THE VOTING AGENT NO LATER THAN **4:00 P.M., PREVAILING EASTERN TIME, ON MAY 11, 2010**, UNLESS EXTENDED BY THE DEBTORS. YOUR BALLOT MAY BE SENT VIA MAIL, OVERNIGHT COURIER OR MESSENGER. FAXED COPIES AND VOTES SENT ON OTHER FORMS WILL NOT BE ACCEPTED EXCEPT IN THE DEBTORS' SOLE DISCRETION. ALL BALLOTS MUST BE SIGNED. IF YOU ARE SENDING YOUR BALLOT TO AN INTERMEDIARY FOR INCLUSION IN A MASTER BALLOT, THE **INTERMEDIARY** MUST RECEIVE YOUR PROPERLY COMPLETED BALLOT BY 12:00 P.M. NOON (PREVAILING EASTERN TIME) ON **MAY 6, 2010**, OR SUCH OTHER TIME AND DATE AS THE INTERMEDIARY MAY AGREE THAT ALLOWS THE INTERMEDIARY SUFFICIENT TIME TO PROCESS THE BALLOTS.

The Ballots have been specifically designed for the purpose of soliciting votes on the Second Amended Plan from the Class entitled to vote with respect thereto. Accordingly, in voting on the Second Amended Plan, please use only the Ballots sent to you with this Disclosure Statement or provided by the Debtors' Voting Agent.

The Debtors have fixed **5:00 p.m. (prevailing Eastern time) on [April 9], 2010** (the "**Voting Record Date**"), as the time and date for the determination of Persons who are entitled to receive a copy of this Disclosure Statement and all of the related materials and to vote whether to accept or reject the Second Amended Plan. Accordingly, only holders of record of Claims and Interests as of the Voting Record Date that are entitled to vote on the Second Amended Plan, will receive a Ballot and may vote on the Second Amended Plan.

All properly completed Ballots received prior to the Voting Deadline will be counted for purposes of determining whether a voting Class of impaired Claims and impaired Interests has accepted the Second Amended Plan. **Under the Bankruptcy Code, for the Second Amended Plan to be "accepted," a specified majority vote is required for each Class of impaired Claims and each Class of impaired Interests entitled to vote on the Second Amended Plan. If no votes are received with respect to any Class of impaired Claims and impaired Interests entitled to vote on the Second Amended Plan, then such Class shall be deemed to have accepted the Second Amended Plan. Any impaired Class that fails to have any Allowed Claims or any Allowed Interests as of the Confirmation Hearing will be deemed to have rejected the Second Amended Plan.** The Voting Agent will prepare and file with the Bankruptcy Court a certification of the results of the balloting with respect to the Class entitled to vote.

In accordance with Bankruptcy Rule 3017(d), the Debtors will send Ballots to transfer agents, registrars, servicing agents or other intermediaries holding Claims for, or acting on behalf of, beneficial holders of Claims (collectively, the “**Intermediaries**”). Each Intermediary will be entitled to receive, upon request to the Debtors, a reasonably sufficient number of Ballots to distribute to the beneficial owners of the Claims or Interests for which it is an Intermediary, and the Debtors will be responsible for and pay each such Intermediary’s reasonable costs and expenses associated with the distribution of Ballots to the beneficial owners of such Claims and Interests and the tabulation of the ballots. Additionally, each Intermediary must receive returned ballots by 12:00 p.m. Noon (prevailing Eastern time) on [May 6], 2010 or such other time and date as the Intermediary may agree so that it can tabulate and return the results to the Voting Agent in a summary “master” ballot in a form approved by the Bankruptcy Court (the “**Master Ballot**”) indicating the number and dollar amount of cast ballots in the group of Claim holders for which it is an Intermediary or indicating the amount of cast ballots in the group of Interest holders for which it is an Intermediary. The Intermediaries must certify that each beneficial holder has not cast more than one vote with respect to any given Claim or Interest for any purpose, including for determining both the number of votes and the amount of the Claim and the Interest, even if such holder holds securities of the same type in more than one account. However, persons who hold Claims and/or Interests in more than one voting Class will be entitled to one vote in each such Class, subject to the applicable voting rules.

#### **IMPORTANT - Voting by Intermediary**

**Timing:** If your vote is being processed by an Intermediary, please allow time for transmission of your ballot to your Intermediary for preparation and delivery to the Voting Agent of a Master Ballot reflecting your vote and the votes of other Claims or Interests tabulated by the Intermediary.

To be counted, your vote must be received *either* (a) directly by the **Voting Agent** on or before the Voting Deadline, or (b) if your vote is processed by an Intermediary, by **your Intermediary** by 12:00 p.m. Noon (prevailing Eastern time) on [May 6], 2010 or such other date and time as the Intermediary may agree to allow the Intermediary to process the Ballots.

Receipt by the **Intermediary** on or close to the Voting Deadline may not allow sufficient time for the Intermediary to include your vote in the Master Ballot that it prepares and delivers to the Voting Agent by the Voting Deadline.

**Questions on Voting Procedures:** If you have a question concerning the voting procedures, please contact your Intermediary or the Voting Agent.

THE DEBTORS BELIEVE THAT CONFIRMATION OF THE SECOND AMENDED PLAN IS IN THE BEST INTERESTS OF ALL HOLDERS OF CLAIMS AND

INTERESTS AND RECOMMEND THAT ALL HOLDERS OF CLAIMS AND INTERESTS ENTITLED TO VOTE ON THE SECOND AMENDED PLAN VOTE TO ACCEPT THE SECOND AMENDED PLAN.

## ARTICLE II.

### **SUMMARY OF PLAN AND CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS THEREUNDER**

#### **2.1 General.**

Pursuant to the Second Amended Plan and the terms and conditions of the APA, the Debtors will consummate the Sale, whereby they will sell, assume, assign and/or transfer the Purchased Assets to the Purchaser in exchange for the Purchase Price (which will consist of Cash and the Assumed Liabilities). The Purchaser either will be the Stalking Horse Bidder<sup>2</sup> or such other Person that submits the highest or otherwise best bid for the Purchased Assets in accordance with the Bid Procedures and with whom the Debtors consummate the APA. Thus, the Debtors do not presently know the identity of the Purchaser, or other information such as the ownership of the Purchaser, the capital structure of the Purchaser or the Purchaser's planned use of the Purchased Assets.

The Debtors expect to fund their obligations under the Second Amended Plan from the proceeds from the Sale. The Cash component of the Purchase Price will be used, first, to pay in full (to the extent not assumed by the Purchaser or paid by the Debtors in the ordinary course of business) the Allowed DIP Claims, Allowed Administrative Expense Claims, Allowed Fee Claims, U.S. Trustee Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims and Allowed Other Secured Claims, except to the extent that the Debtors elect to treat holders of such Claims differently in accordance with the terms of the Second Amended Plan, and second, to fund the Wind Down Account. The remaining Cash proceeds of the Sale will be allocated to holders of Allowed Rath General Unsecured Claims and Allowed Greenville General Unsecured Claims (based on the revenue of each Debtor for fiscal year 2010), in each case solely to the extent such Claims and Interests are not assumed by the Purchaser in connection with the Sale. See section 11.1(c) below. Allowed RG Tube General Unsecured Claims, Allowed Existing RG Tube Interests, RGCH General Unsecured Claims and Allowed RGCH PIK Notes Claims plus the Ad Hoc RGCH PIK Noteholders Committee and the RGCH PIK Notes Agent shall be paid solely from the RG Tube Cash in accordance with the terms of the Second Amended Plan, in each case solely to the extent such Claims and Interests are not assumed by the Purchaser in connection with the Sale.

In addition to the foregoing, the Second Amended Plan reflects a global settlement (the "**Global Settlement**") of: (i) various potential Intercompany Claims; (ii) the Debtors' dispute with the Ad Hoc RGCH PIK Noteholders Committee; and (iii) potential

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<sup>2</sup> The Stalking Horse Bidder is RathGibson Acquisition Co, LLC, a Delaware limited liability company, and is comprised of several of the current DIP Lenders and certain holders of the Senior Notes.



disputes with the Creditors' Committee regarding various matters. The Second Amended Plan is the product of extensive negotiations and discussions with the Stalking Horse Bidder, the Creditors' Committee, the Ad Hoc Senior Noteholders Committee and, with respect to the recoveries to holders of Allowed RGCH PIK Notes Claims, the Ad Hoc RGCH PIK Noteholders Committee. If confirmed, the Second Amended Plan will address the treatment of Claims against and Interests in each of the four Debtors and will fully and finally resolve numerous intercompany and intercreditor issues.

As part of the Global Settlement, if holders of RGCH PIK Notes Claims vote, as a class, to accept the Second Amended Plan, in full and final settlement of such holders Claims, each holder of an RGCH PIK Notes Claim will receive its Pro Rata Share of \$300,000 in Cash. Existing RGCH Interests, Existing Rath Interests, and Existing Greenville Interests will be cancelled. In full and final settlement of Existing RG Tube Interests, subject to the terms of the Plan, each holder of an Allowed RG Tube Interest will receive its Pro Rata Share of \$25,000 in Cash.

The Debtors believe that the Second Amended Plan provides for appropriate treatment of all Classes of Claims and Interests, taking into account the differing natures and priorities of the Claims and Interests.

## **2.2 Summary of the Stalking Horse Agreement.**

Following extensive discussions and negotiations, the Debtors and the Stalking Horse Bidder agreed to the terms of the Stalking Horse Agreement for the purchase of the Purchased Assets. The Debtors believe that the value they will realize from the Stalking Horse Agreement or a higher or otherwise better bid from a Successful Bidder will support a confirmable chapter 11 plan that will maximize value to their various creditor constituencies and bring a successful conclusion to these Chapter 11 Cases. On that basis, the Debtors are prepared to proceed with the sale of their business and assets under the terms of the Stalking Horse Agreement and the Second Amended Plan, subject to higher or otherwise better bids in accordance with the Bid Procedures.

Pursuant to the Stalking Horse Agreement, the Stalking Horse Bidder has agreed to acquire the Debtors' right, title and interest in, to and under, free and clear of all encumbrances (other than Permitted Encumbrances (as defined in the Stalking Horse Agreement)), all or substantially all of the Debtors' assets for a purchase price consisting of \$93 million in cash, subject to downward adjustment, plus certain assumed liabilities. Annexed hereto as Exhibit 6 is a summary of the material terms of the Stalking Horse Agreement (the "Stalking Horse Agreement Summary"). The Stalking Horse Agreement Summary is intended as a summary only. To the extent the description provided therein differs in any respects from the terms of the Stalking Horse Agreement, the terms of the Stalking Horse Agreement govern. A copy of the Stalking Horse Agreement is annexed hereto as Exhibit 4.

## **2.3 Bid Procedures.**

The Sale pursuant to the APA is subject to higher or better offers, as more fully set forth in the *Order (I) (A) Approving Bid Procedures With Respect To The Sale*;

(B) Approving Bid Protections With Respect To Stalking Horse Bidder; (C) Approving Assumption, Assignment And/Or Transfer Procedures; And (D) Scheduling An Auction And Approving The Form And Manner Of Notice Thereof; And (II) Granting Related Relief annexed hereto as Exhibit 5 (the “**Bid Procedures Order**”). Pursuant to the Bid Procedures Order, the Bid Deadline (as defined in the Bid Procedures Order) is scheduled for [May 12], 2010 at 5:00 p.m., prevailing Eastern time. If an Auction is held, it is scheduled to be held on [May 19], 2010. The Debtors will seek approval of the Successful Bid (as defined in the Bid Procedures Order) at the Confirmation Hearing.

**2.4 Summary of Treatment of Claims and Interests Under the Second Amended Plan.**

The following table classifies the Claims against, and Interests in, the Debtors into separate Classes and summarizes the treatment of each Class under the Second Amended Plan. The table also identifies which Classes are entitled to vote on the Second Amended Plan based on provisions of the Bankruptcy Code. Finally, the table indicates the estimated recovery for each Class. The recoveries and estimates described in the following tables represent the Debtors’ best estimates given the information available on the date of this Disclosure Statement. All statements in this section relating to the amount of Claims and Interests are only estimates based on information known to the Debtors as of the date hereof, and the final amounts of Allowed Claims may vary significantly from these estimates. **The Sale is subject to higher or otherwise better offers. Persons entitled to vote on the Second Amended Plan will be casting their ballots to accept or reject the Second Amended Plan prior to the Auction, if any. Accordingly, if higher or otherwise better offers are received and accepted by the Debtors and approved by the Bankruptcy Court, the estimated distributions set forth below may be higher or otherwise better than as set forth below.**

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, U.S. Trustee Fees, Fee Claims, and Priority Tax Claims have not been classified. Except as specifically noted therein, the Second Amended Plan does not provide for payment of postpetition interest with respect to Allowed Claims (excluding Allowed DIP Claims).

| <i>Class</i> | <i>Description</i> | <i>Treatment</i>  | <i>Entitled to Vote</i> | <i>Estimated Amount of Claims or Interests in Class</i> | <i>Estimated Recovery</i> |
|--------------|--------------------|---|-------------------------|---|---------------------------|
| Unclassified | DIP Claims         | Holders of Allowed DIP Claims will be paid in full in Cash. | No.                     | \$83.58 million <sup>3</sup>                            | 100%                      |

<sup>3</sup> This amount includes a Court-approved “exit fee” of \$3.2 million.

| <i>Class</i> | <i>Description</i>            | <i>Treatment</i>  | <i>Entitled to Vote</i> | <i>Estimated Amount of Claims or Interests in Class</i> | <i>Estimated Recovery</i> |
|--------------|-------------------------------|---|-------------------------|---|---------------------------|
| Unclassified | Administrative Expense Claims | Each holder of an Allowed Administrative Expense Claim shall receive, unless such holder agrees to different treatment, Cash in an amount equal to such Allowed Claim; <u>provided, however,</u> that any Administrative Expense Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Administrative Expense Claim. | No.                     | \$175,000   | 100%                      |
| Unclassified | Fee Claims                    | Each holder of an Allowed Fee Claim for which a Fee Application has been approved by the Bankruptcy Court shall receive Cash in an amount so approved.  | No.                     | \$5.30 million  | 100%                      |
| Unclassified | U.S. Trustee Fees             | Each of the Debtors shall pay all outstanding U.S. Trustee Fees of such Debtor on an ongoing basis on the later of: (i) the Effective Date; and (ii) the date such U.S. Trustee Fees become due.  | No                      | \$33,000  | 100%                      |
| Unclassified | Priority Tax Claims           | Unless such holder agrees to different treatment, each holder of an Allowed Priority Tax Claim shall receive, at the applicable Debtor's option, either: (a) Cash in an amount equal to the amount of such Claim, or (b) deferred Cash  | No.                     | \$157,190   | 100%                      |

| <i>Class</i> | <i>Description</i>      | <i>Treatment</i>  | <i>Entitled to Vote</i> | <i>Estimated Amount of Claims or Interests in Class</i> | <i>Estimated Recovery</i> |
|--------------|-------------------------|---|-------------------------|---|---------------------------|
|              |                         | <p>payments following the Effective Date, over a period ending not later than five (5) years after the Petition Date, in an aggregate amount equal to the Allowed amount of such Priority Tax Claim (plus any interest due, calculated in accordance with section 511 of the Bankruptcy Code); <u>provided, however</u>, that any Priority Tax Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Priority Tax Claim.</p> |                         |   |                           |
| Class 1      | Priority Non-Tax Claims | <p>Except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to different treatment and after the date a Priority Non-Tax Claim becomes an Allowed Claim, on, or as soon thereafter as is reasonably practicable, the Initial Distribution Date, the holder of such Allowed Priority Non-Tax Claim shall receive Cash from the applicable Debtor in an amount equal to such Claim; <u>provided, however</u>, that any Priority Non-Tax Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the</p>  | No.                     | \$48,718  | 100%                      |

| <i>Class</i> | <i>Description</i>   | <i>Treatment</i>   | <i>Entitled to Vote</i> | <i>Estimated Amount of Claims or Interests in Class</i> | <i>Estimated Recovery</i> |
|--------------|----------------------|--|-------------------------|---|---------------------------|
|              |                      | APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Priority Non-Tax Claim.  |                         |   |                           |
| Class 2      | Other Secured Claims | Except to the extent that a holder of an Allowed Other Secured Claim agrees to different treatment and after the date an Other Secured Claim becomes an Allowed Claim, on, or as soon thereafter as is reasonably practicable, the Initial Distribution Date, each holder of such Allowed Other Secured Claim shall receive, at the election of the Debtors: (i) Cash in an amount equal to such Allowed Claim; (ii) such other treatment that will render the Other Secured Claim unimpaired pursuant to section 1124 of the Bankruptcy Code; or (iii) the return of property securing such Allowed Other Secured Claim; <u>provided, however,</u> that any Other Secured Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Other Secured Claim. | No.                     | \$0   | 100%                      |

| <i>Class</i> | <i>Description</i>                          | <i>Treatment</i>  | <i>Entitled to Vote</i> | <i>Estimated Amount of Claims or Interests in Class</i> | <i>Estimated Recovery</i> |
|--------------|---|---|-------------------------|---|---------------------------|
| Class 3(a)   | Prepetition Secured Credit Agreement Claims | To the extent not already paid in full prior to the Effective Date pursuant to the terms of DIP Orders or otherwise, on the Effective Date, or as soon as practicable thereafter, the Allowed Prepetition Secured Credit Agreement Claims shall be paid in an aggregate amount equal to (i) \$52,747,405.02 plus (ii) any accrued and unpaid interest at the non-default contract rate under the Prepetition Secured Credit Agreement as of the Effective Date, except to the extent such interest is otherwise provided in the Second Amended Plan to be paid or satisfied, plus (iii) unpaid professional fees and expenses, as provided for in the Prepetition Secured Credit Agreement and the DIP Orders plus (iv) all other Obligations as defined in the Prepetition Secured Credit Agreement, in complete and final satisfaction, settlement, release, and discharge of, and in exchange for such Allowed Claims. | No.                     | \$53.29 million   | 100% <sup>4</sup>         |
| Class 3(b)   | Rath General Unsecured Claims               | Except to the extent that a holder of an Allowed Rath General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the later of five (5) Business Days after the Prepetition   | Yes.                    | \$209.525 million                                       | 1.2%                      |

<sup>4</sup> The Debtors' obligations under the Prepetition Secured Credit Agreement were paid in full pursuant to the Final DIP Order.

| <i>Class</i> | <i>Description</i>                  | <i>Treatment</i>  | <i>Entitled to Vote</i> | <i>Estimated Amount of Claims or Interests in Class</i> | <i>Estimated Recovery</i> |
|--------------|-------------------------------------|---|-------------------------|---|---------------------------|
|              |                                     | Ordinary Course of Business Trade Claims Bar Date and the next Interim Distribution Date immediately following the date that a Rath General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed Rath General Unsecured Claim shall receive its Pro Rata Share of the Class 3(b) Distribution; <u>provided, however,</u> that any Rath General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Rath General Unsecured Claim. |                         |   |                           |
| Class 3(c)   | Existing Rath Interests             | Existing Rath Interests shall be cancelled and holders of Existing Rath Interests shall not be entitled to any distribution under the Second Amended Plan.  | No.                     | N/A   | 0%                        |
| Class 4(a)   | Greenville General Unsecured Claims | Except to the extent that a holder of an Allowed Greenville General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the next Interim Distribution Date immediately following the date that a Greenville General Unsecured Claim becomes an Allowed Claim, each holder of   | Yes.                    | \$209.250 million                                       | 0.2%                      |

| <i>Class</i> | <i>Description</i>            | <i>Treatment</i>  | <i>Entitled to Vote</i> | <i>Estimated Amount of Claims or Interests in Class</i> | <i>Estimated Recovery</i> |
|--------------|-------------------------------|---|-------------------------|---|---------------------------|
|              |                               | an Allowed Greenville General Unsecured Claim shall receive its Pro Rata Share of the Class 4(a) Distribution; <u>provided, however,</u> that any Greenville General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Greenville General Unsecured Claim. |                         |   |                           |
| Class 4(b)   | Existing Greenville Interests | Existing Greenville Interests shall be cancelled and holders of Existing Greenville Interests shall not be entitled to any distribution under the Second Amended Plan.  | No.                     | N/A   | 0%                        |
| Class 5(a)   | RGCH PIK Notes Claims         | Each holder of an Allowed RGCH PIK Notes Claim shall receive in exchange for, such Claim its Pro Rata Share of the Class 5(a) Distribution; <u>provided, however,</u> holders of Allowed RGCH PIK Notes Claims shall not receive or retain any distribution under the Second Amended Plan on account of their RGCH PIK Notes Claims if Class 5(a) votes to reject the Second Amended Plan.  | Yes.                    | \$152.24 million  | 0.2%                      |
| Class 5(b)   | RGCH General Unsecured        | Except to the extent that a holder of an Allowed RGCH General Unsecured Claim   | Yes.                    | \$0   | N/A                       |



| <i>Class</i> | <i>Description</i>               | <i>Treatment</i>   | <i>Entitled to Vote</i> | <i>Estimated Amount of Claims or Interests in Class</i> | <i>Estimated Recovery</i> |
|--------------|----------------------------------|--|-------------------------|---|---------------------------|
|              | Claims                           | agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the next Interim Distribution Date immediately following the date that a RGCH General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed RGCH General Unsecured Claim shall receive its Pro Rata Share of the Class 5(b) Distribution; <u>provided, however,</u> that any RGCH General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such RGCH General Unsecured Claim. |                         |   |                           |
| Class 5(c)   | Existing RGCH Interests          | Existing RGCH Interests shall be cancelled and holders of Existing RGCH Interests shall not be entitled to any distribution under the Second Amended Plan.   | No.                     | N/A   | 0%                        |
| Class 6(a)   | RG Tube General Unsecured Claims | Except to the extent that a holder of an Allowed RG Tube General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the  | Yes.                    | \$0   | N/A                       |

| <i>Class</i> | <i>Description</i>         | <i>Treatment</i>   | <i>Entitled to Vote</i> | <i>Estimated Amount of Claims or Interests in Class</i> | <i>Estimated Recovery</i> |
|--------------|----------------------------|--|-------------------------|---|---------------------------|
|              |                            | next Interim Distribution Date immediately following the date that a RG Tube General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed RG Tube General Unsecured Claim shall receive its Pro Rata Share of the Class 6(a) Distribution in Cash; <u>provided, however</u> , that any RG Tube General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such RG Tube General Unsecured Claim. |                         |   |                           |
| Class 6(b)   | Existing RG Tube Interests | Each holder of an Allowed Existing RG Tube Interest shall receive its Pro Rata Share of \$25,000 in Cash.  | Yes.                    | N/A   | N/A                       |

The recoveries set forth above are estimates and are contingent upon approval of the Second Amended Plan as proposed.

### ARTICLE III.

#### **BUSINESS DESCRIPTION AND CIRCUMSTANCES THAT LED TO THESE CHAPTER 11 CASES**

#### **3.1 The Debtors' Businesses.**

##### **(a) The Debtors.**

The Debtors (together with their non-debtor subsidiaries, the "Company"), headquartered in Illinois, comprise one of the world's leading specialty manufacturers of highly engineered premium stainless steel and alloy tubular products. The Company's products are

designed to meet customer specifications and are used in environments that require high-performance characteristics, such as exceptional strength and the ability to withstand corrosive materials, extreme temperatures, or high pressure. The Company sells over 1,000 products globally in diverse end-markets, including, among others: (a) chemical/petrochemical processing and power generation; (b) energy; (c) food, beverage and pharmaceuticals; and (d) general commercial markets. The Company's primary trade brands, Rath<sup>TM</sup>, Gibson Tube<sup>®</sup> and GTC<sup>®</sup> are recognized as industry leaders, and the Company's products have won numerous awards for quality and reliability from its customers. In addition, the Company's short customer lead times and custom product lengths further distinguish the Company from lower quality, standardized steel tubing and pipe products.

The Company primarily operates within certain niche sub-segments of the global welded and seamless tube industry, and mainly focuses on stainless steel tubing products, which are premium products that offer higher margins than those products manufactured from carbon steel. The Company sells its products to value-added tubing distributors, original equipment manufacturers and engineering firms.

**(b) Company History.**

In 1999, Rath Manufacturing Company Holdings, Inc., with operations in Janesville, Wisconsin, was combined with Gibson Tube Company, with operations in North Branch, New Jersey, to form RathGibson. In 2003, the Company hired a new executive team that implemented a comprehensive set of operational initiatives at its Janesville, Wisconsin facility, which enhanced the Company's efficiency and profitability. These included improved purchasing activities, the reduction of scrap generation and the upgrading of equipment to increase throughput and reduce labor costs. In October 2004, the Company integrated the management, business strategy, marketing and operations of its Janesville, Wisconsin and North Branch, New Jersey facilities and implemented the sharing of best practices between the two facilities.

On February 7, 2006, all of the equity interests of RathGibson were purchased by RGCH, a wholly-owned subsidiary of RGCH Holdings LLC ("**RGCH LLC**"), an affiliate of Castle Harlan Partners IV, L.P., a private equity investment fund, and certain members of RathGibson's senior management who exchanged a portion of their equity in RathGibson for equity in RGCH LLC.

On August 15, 2006, RathGibson acquired all of the outstanding equity interests of Greenville. Greenville manufactures specialty stainless steel and nickel alloy tubular products for use in various end-markets. Greenville is strategically focused on serving non-commodity niche tubing markets by providing tubing in custom sizes, small lots and non-traditional grades, while delivering orders with short lead times as compared to the industry.

On June 15, 2007, 100% of the equity of RGCH was purchased from RGCH LLC by RG Tube, which was then an affiliate of DLJ Merchant Banking Partners IV, L.P. and certain of its affiliated investment funds ("**DLJ**"), and certain members of RathGibson's senior management who exchanged a portion of their equity in RGCH LLC for equity in RG Tube (such transaction, the "**DLJ Acquisition**").

On February 27, 2008, the Company entered into an asset purchase agreement with Mid-South Control Line, Inc. ("Mid-South"), whereby the Company acquired substantially all of the assets and assumed certain of the liabilities of Mid-South. Mid-South is a distributor of stainless steel and nickel alloy tubing and accessories in the domestic and international oil and gas industry.

**(c) Products.**

The Company primarily produces stainless steel tubing, which is typically either welded or seamless. Welded stainless steel and specialty alloy tubular products are desirable in applications that require exceptional strength, resistance to corrosion and the ability to withstand intense heat and pressure, such as energy applications. Furthermore, the easy cleaning, tolerance of sterilizing cycles and non-contaminating characteristics of stainless steel tubing make it the first choice for hygienic environments, such as pharmaceutical and food processing facilities, hospitals and kitchens.

Welded tubing, which is the Company's primary product, has become increasingly popular globally for most applications due to its dimensional and wall thickness, consistency and concentricity, corrosion resistance, mechanical strength and lower cost relative to seamless tubing, primarily attributable to steadily improving production technology. Welded tubes are manufactured by using consecutively smaller precision dies to roll strips of material into tubular shapes, while various welding technologies connect the edges to form a longitudinal seam. The tubes are then heat treated and tested for product integrity during the manufacturing process. This operation is more cost effective than seamless tubing because it is continuous, with the rolling, welding and testing taking place on the same mill.

The Company manufactures its tubing to comply with major industry standards, such as those of the American Society of Mechanical Engineers and the American Society for Testing Materials. The Company also seeks to ensure high quality products by employing multiple non-destructive testing techniques, such as film based x-ray, digital radiography, ultrasonic testing, dual frequency eddy current testing, hydrostatic testing, air underwater testing and metallographic examination. Approximately 70% of the Company's products are designed to meet customer specifications.

**(1) Chemical/Petrochemical Processing and Power Generation Products.**

The Company's chemical/petrochemical processing and power generation products include stainless steel tubing used in heat exchangers and condensers as well as nickel alloy and titanium tubing. Heat exchangers transfer heat from one fluid or gas to another using various media such as air, gas, water, steam, oil, refrigerant, heat transfer fluids, glycol or polymers and are used for many manufacturing processes. The Company's tubing is primarily utilized in shell and tube heat exchangers, which consist of a bundle of tubes, 30,000 feet on average, enclosed in a cylindrical shell. Shell and tube heat exchangers comprise approximately 30% of the market for heat exchangers. Demand in this market primarily is driven by both new and refurbishment capital spending by the Company's chemical and petrochemical customers such as ExxonMobil, Shell Oil, DuPont and Monsanto.

## (2) Energy Products.

The Company's energy products include pressure coils, encapsulated wires and subsea umbilical tubing. Demand for these products primarily is driven by oil and gas production.

## (3) Food, Beverage and Pharmaceutical Products.

The Company's food, beverage and pharmaceutical products include high purity/electropolished and beverage coil tubing. High purity tubing is common in the food and beverage equipment market, as it meets stringent standards due to its surface finish and ease of cleaning. The internal and external surfaces of high purity tubes have enhanced smoothness which reduces the risk of contaminants adhering to the inside of the tubes. Demand for these products is driven by new pharmaceutical development and increased international demand for high purity products.

## (4) General Commercial Products.

The Company's commercial quality tubing products are used by a variety of customers in various markets either for their pressure retention, mechanical properties or corrosion resistance. The Company produces tubing to perform in a wide variety of applications, including such divergent uses as sprinkler systems and misting systems, conveyor belt rollers, car wash equipment, and for use in chemical plants, pulp and paper plants and for power generation applications. As a result of their broad range of end-users, demand for these products is driven by overall economic conditions.

### (d) Facilities and Offices.

The Company is headquartered in Lincolnshire, Illinois, and has four facilities located in Wisconsin, New Jersey, Louisiana and Arkansas. The Wisconsin facility produces welded straight tubing products; the Arkansas facility produces seamless straight tubing products; and the New Jersey facility primarily produces coiled tubing products. The Louisiana facility is primarily a distribution facility with a significant portion of its products purchased from the New Jersey plant. The Company's state-of-the-art production facilities use internally developed proprietary manufacturing and welding techniques and sophisticated finishing processes. The Company has the capability to manufacture products from over 35 different high-performance alloys. As customers' delivery requirements are often shorter than suppliers lead times, the Company carries significant inventories of raw materials.

In addition to their domestic facilities, the Debtors have three non-debtor foreign subsidiaries (the "**Foreign Subs**"), which operate sales offices, located in Australia, Singapore and India. In addition, RathGibson maintains sales offices in China, Korea, Austria, Bahrain and Argentina (the "**International Sales Offices**"). The Foreign Subs and the International Sales Offices together employ a total of 12 employees. The International Sales Offices provide the Debtors with access to a wide variety of markets in which they would otherwise be unable to readily sell their goods.

**(e) Operations.**

**(1) Suppliers.**

The principal raw material inputs for the Company's products include stainless steel, specialty alloys, titanium and industrial gases, such as hydrogen and argon. The Company's large volume of stainless steel purchases historically enabled it to negotiate favorable purchasing terms from suppliers of stainless steel.

**(2) Competition.**

Global production of welded stainless steel tube and pipe products in the Company's industry niche sub-segments is largely concentrated in the United States. However, the Company also competes with a limited number of European and Asian manufacturers, primarily with respect to the Company's foreign sales. Domestically, the Company faces limited competition from foreign manufacturers due to shipping costs, longer lead times and the limited experience of most foreign manufacturers working with specialty alloys and producing the fully finished tubular products that customers for the Company's industry sub-segments demand.

The Company competes primarily on the basis of price, quality, service and ability to fill orders on a timely basis. The Company faces competition in the markets for each of the products it manufactures and its primary competitors are specialty manufacturers of tubular products that are believed to have annual net sales in the Company's product lines that are significantly less than the Company's. These specialty manufacturers typically manufacture one or two products with which the Company's products compete, and the Company therefore often has different competitors in the markets for each of its products.

**(3) Government Regulation.**

The Company's manufacturing facilities are subject to many federal, state and local environmental laws, ordinances and regulations that limit discharges into the environment, establish standards for the handling, generation, emission, release, discharge, treatment, storage and disposal of hazardous materials, substances and waste, and require cleanup of contaminated soil and groundwater. These laws, ordinances and regulations are complex, change frequently and have tended to become more stringent over time. Many of them provide for substantial fines and penalties, orders (including orders to cease operations) and criminal sanctions for violations. They may also impose liability for property damage and personal injury stemming from the presence of, or exposure to, hazardous substances. The Company is unaware of any existing, pending, or threatened contingent liability that may have a material adverse effect on its ongoing business operations.

The Company's operations also are governed by laws and regulations relating to workplace safety and worker health and regulations which, among other requirements, establish lifting, noise and dust standards. The Company believes it is in material compliance with these laws and regulations and does not believe that future compliance with such laws and regulations will have a material adverse effect on its results of operations or financial condition.

### **3.2 Summary of Corporate Structure.**

RG Tube is the ultimate parent of the other Debtors. The majority of the equity of RG Tube is held by DLJ. RG Tube owns 100% of the equity interests of RGCH, which is the direct parent of RathGibson. RathGibson is the direct parent of Greenville as well as the three non-Debtor Foreign Subs, whose primary purpose is to assist the Debtors in their foreign sales.

### **3.3 Debtors' Prepetition Capital and Debt Structure.**

Certain of the Debtors are party to the senior secured revolving Prepetition Credit Agreement, dated as of February 7, 2006, by and among RathGibson, as borrower, RGCH and Greenville, as guarantors, the Prepetition Secured Lender (as explained in more detail in Section 4.2 below), and General Electric Capital Corporation, as agent ("**GECC**"). The maximum borrowing capacity under the Prepetition Credit Agreement was \$90 million, subject to borrowing base availability. As of the Petition Date, the outstanding balance under the Prepetition Credit Agreement, including principal and interest, was approximately \$52.3 million, which debt is secured by substantially all of the Debtors' assets. See Section 10.5(b), "Postpetition Financing and Use of Cash Collateral," below.

In addition, pursuant to an indenture, dated as of February 7, 2006, RathGibson issued the Senior Notes in the aggregate principal amount of \$200 million. The Senior Notes bear interest at the annual rate of 11.25% and are due on February 15, 2014. The Senior Notes are unsecured obligations of RathGibson, and are guaranteed by Greenville. As of the Petition Date, the outstanding balance of the Senior Notes, including principal and interest, was approximately \$209.25 million.

In connection with the DLJ Acquisition, RGCH issued the RGCH PIK Notes in the aggregate principal amount of \$115.0 million, pursuant to the RGCH PIK Credit Agreement. The RGCH PIK Notes bear interest at the annual rate of 13.5% and are due on June 15, 2015. The RGCH PIK Notes are unsecured and structurally subordinate to the Senior Notes. As of the Petition Date, the outstanding balance of the RGCH PIK Notes, including principal and interest, was approximately \$152.2 million. The other Debtors are not a party to any agreement related to the RGCH PIK Notes and do not have any obligations (including any guarantee obligations) in respect of the RGCH PIK Notes.

In addition, Greenville is party, with RathGibson as guarantor, to an approximately \$1.6 million secured industrial development revenue bond with the City of Clarksville, Arkansas (which was subsequently assigned to GE Capital Franchise Finance Corporation), due December 30, 2014, the proceeds of which were used to fund a project at the Company's Clarksville, Arkansas facility.

The Debtors estimate that as of the Petition Date, they had approximately \$6.4 million in unpaid ordinary course trade obligations. In addition, there were approximately \$14.8 million in intercompany obligations, including ordinary course trade obligations, due from RathGibson to Greenville.

## ARTICLE IV.

### EVENTS LEADING TO CHAPTER 11 FILING

#### **4.1 *The Debtors' Financial Position.***

The Company had net losses of approximately \$216 million in total for the fiscal year ended January 31, 2009 and net losses of approximately \$40.8 million in total for the fiscal year to date period ended December 31, 2009. As of December 31, 2009, the Debtors' unaudited consolidated balance sheet reflected total current assets of approximately \$106.5 million and total current liabilities of approximately \$115.4 million.

#### **4.2 *Events Leading to the Formulation of the First Amended Plan.***

Leading up to the commencement of these chapter 11 cases, the Debtors faced significant operational challenges, including, inter alia: (i) a decline in the demand for the Debtors' products as a result of various macroeconomic factors; (ii) a decline in value of raw materials and other inventory held by the Debtors; and (iii) revenue shortfalls in the Debtors' businesses that have impacted profitability.

In February 2009, Moody's Investors Service downgraded the Company's credit ratings from B3 to Caa2 with a revision to the Company's outlook from stable to negative. The operational challenges and resulting impact on the Debtors' financial condition led to issues on the Debtors' ability to satisfy certain covenants under the RGCH PIK Credit Agreement, compromising their ability to borrow thereunder without certain waivers or amendments under the Prepetition Secured Credit Agreement.

The Debtors' increasing liquidity issues and the looming interest payment of \$11.25 million under the Senior Notes, due on August 15, 2009, raised questions by the Debtors' auditors about the Debtors' ability to continue as a going-concern enterprise. These questions led the Debtors to file a Form 12b-25 with the SEC delaying the filing of its Form 10-K.

The 12b-25 and the Form 10-K filed in May 2009 and the Form 10-Q filed in June 2009 disclosed the negative trend in the Company's financial condition, its covenant compliance issues and its strained liquidity position. In May 2009, Standard & Poor's also downgraded the Company's credit ratings from B to CCC+ with a revision to the Company's outlook from negative to watch negative. In June 2009, Moody's further downgraded the Company's credit ratings.

Prior to the Petition Date, the Debtors had been continuously exploring their options for addressing their liquidity and capital structure issues with their lenders, noteholders and other constituents.

As a result of the severe liquidity issues facing the Company, in June 2009, the Company began exploring opportunities to obtain additional funding. The liquidity was especially needed because the Debtors were close to covenant breaches under their credit agreement and insufficient availability to meet its liabilities to trade creditors. At that time, the



then prepetition secured lenders also were conducting an inventory valuation, which upon conclusion may have left the Company with no borrowing base availability under the Prepetition Secured Credit Agreement. In light of the liquidity crisis facing the Company, the Company's advisors reached out to parties who may have had an interest in providing additional financing to the Company and required the submission of a commitment letter, in a very short period of time, to provide funding to the Company to enable it to continue its operations.

As a result of this urgent need for additional liquidity, on June 19, 2009, one of the DIP Lenders, took assignment<sup>5</sup> of the prepetition secured debt and entered into an amendment to the Prepetition Credit Agreement to provide, among other things, the Company with much needed liquidity necessary to operate their businesses. Also on June 19, 2009, the Debtors negotiated a term sheet and signed a commitment letter (the "**Commitment Letter**") with certain of the DIP Lenders outlining the terms and conditions of the DIP Facility.

As required by the terms of the Commitment Letter, and after good faith negotiations, the Debtors negotiated the terms of a plan support agreement and the First Amended Plan with an informal committee of the holders of the Senior Notes, which committee includes certain of the DIP Lenders. The plan support agreement, dated July 13, 2009, was executed by certain holders of the Senior Notes representing approximately 73% in principal amount of the Senior Notes, each of whom agreed to vote in favor of the First Amended Plan, if certain conditions were met in accordance with the terms of the plan support agreement.

On the Petition Date, RathGibson and Greenville, two of the Debtors, filed the First Amended Plan and related disclosure statement [Docket No. 33]. At a hearing held on August 31, 2009, the Bankruptcy Court approved the disclosure statement related to the First Amended Plan as containing adequate information under section 1125 of the Bankruptcy Code and authorized such Debtors to solicit votes to accept or reject the First Amended Plan. While the First Amended Plan was unanimously accepted by those Persons entitled to vote thereon, following the solicitation of votes in respect of the First Amended Plan, the Debtors determined it was appropriate to amend the First Amended Plan to, among other things, provide for the inclusion of RG Tube and RGCH in the chapter 11 plan and to implement a more tax efficient restructuring. After several months of discussions with key constituencies in these cases, the Debtors determined that it was in their, their estates and their creditors best interests to pursue the Sale, whereby the Debtors intend, subject to Bankruptcy Court approval and acceptance of the Second Amended Plan by the applicable Persons entitled to vote thereon, to sell substantially all of their assets to the Stalking Horse Bidder or such other bidder that submits a higher or otherwise better bid at the Auction pursuant to the Bid Procedures. The APA contemplates the

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<sup>5</sup> On June 19, 2009: (i) GECC and Wayzata Opportunities Fund II, L.P. ("**WF II**") entered into that certain Assignment and Transition Agency Agreement, and (ii) Natixis and WF II entered into that certain Assignment Agreement, pursuant to which GECC and Natixis, respectively, assigned their interests in and commitments as lenders under the Prepetition Credit Agreement to WF II. As a result of these assignments, WF II is the sole remaining Secured Lender under the Prepetition Credit Agreement as of the Petition Date. GECC continues to act as agent under the Prepetition Credit Agreement.

assumption of certain liabilities, including the assumption of all ordinary course of business trade payables listed on the Schedules and as set forth in the APA.

## ARTICLE V.

### **REASONS FOR THE SOLICITATION; RECOMMENDATION**

Chapter 11 of the Bankruptcy Code provides that unless the terms of section 1129(b) of the Bankruptcy Code are satisfied, for the Bankruptcy Court to confirm the Second Amended Plan as a consensual plan, the holders of impaired Claims against the Debtors in each Class of impaired Claims and each impaired Class of Interests entitled to vote on the Second Amended Plan must accept the Second Amended Plan by the requisite majorities set forth in the Bankruptcy Code. An impaired Class of Claims shall have accepted the Second Amended Plan if (a) the holders of at least two-thirds (2/3) in amount of the Claims in such Class actually voting on the Second Amended Plan have voted to accept it, and (b) more than one-half (1/2) in number of the holders in such Class actually voting on the Second Amended Plan have voted to accept it. An impaired Class of Interests shall have accepted the Second Amended Plan if the holders of at least two-thirds (2/3) in amount of the Interests in such Class actually voting on the Second Amended Plan have voted to accept it (in the case of such votes in (a) and (b), the “**Requisite Acceptances**”).

In light of the significant benefits to be attained by the Debtors and their creditors if the transactions contemplated by the Second Amended Plan are consummated, the Debtors recommend that all holders of Claims and Interests entitled to do so, vote to accept the Second Amended Plan. The Debtors reached this decision after considering available alternatives to the Second Amended Plan and their likely effect on the Debtors’ business operations, creditors, and shareholders. These alternatives included liquidation of the Debtors under chapter 7 of the Bankruptcy Code or a reorganization under chapter 11 of the Bankruptcy Code. The Debtors determined, after consulting with their legal and financial advisors, that the Second Amended Plan, if consummated, will maximize the value of these estates for stakeholders under the circumstances of these Chapter 11 Cases, as a result of, among other things, the Sale and the compromises and settlements embodied therein, as compared to any other out-of-court refinancing scenario reasonably available, or any other chapter 11 reorganization strategy or a liquidation under chapter 7. For all of these reasons, the Debtors support the Second Amended Plan and urge the holders of Claims and Interests entitled to vote on the Second Amended Plan to accept and support it. As set forth in the letter from the Creditors’ Committee accompanying the Disclosure Statement, the Creditors’ Committee supports the Plan and urges unsecured creditors to vote in favor thereof.

## ARTICLE VI.

### **THE SECOND AMENDED PLAN**

#### **6.1 *Overview of Chapter 11.***

Chapter 11 is the principal business restructuring chapter of the Bankruptcy Code. Under chapter 11, a debtor is authorized to restructure its business for the benefit of itself, its

creditors and its equity interest holders. In addition to permitting the rehabilitation of a debtor, another goal of chapter 11 is to promote equality of treatment for similarly situated creditors and similarly situated equity interest holders with respect to the distribution of a debtor's assets.

The commencement of a chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the bankruptcy filing date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession."

The consummation of a chapter 11 plan is the principal objective of a chapter 11 restructuring case. A chapter 11 plan sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a chapter 11 plan by the bankruptcy court makes that plan binding upon the debtor, any issuer of securities under the plan, any Person acquiring property under the plan and any creditor or equity interest holder of a debtor. Subject to certain limited exceptions, the order approving confirmation of a plan provides releases to a debtor and any debt that arose prior to the date of confirmation of the plan is satisfied in accordance with the terms of that particular plan.

In general, a chapter 11 plan (a) divides claims and equity interests into separate classes, (b) specifies the property, if any, that each class is to receive under the plan, and (c) contains other provisions necessary to the restructuring of the debtor and that are required or permitted by the Bankruptcy Code.

Pursuant to section 1125 of the Bankruptcy Code, acceptance or rejection of a plan may not be solicited after the commencement of a chapter 11 case until such time as the court has approved the disclosure statement as containing adequate information. Pursuant to section 1125(a) of the Bankruptcy Code, "adequate information" is information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding the chapter 11 plan. To satisfy applicable disclosure requirements, the Debtors submit this Disclosure Statement to holders of Claims that are impaired and not deemed to have rejected the Second Amended Plan and Interests that are impaired and not deemed to have accepted or rejected the Second Amended Plan.

## **6.2 *Intercompany Claims.***

On the Effective Date, all Intercompany Claims (other than Intercompany Claims that constitute Purchased Assets or Assumed Liabilities and that are sold, transferred, assigned, conveyed or delivered by the applicable Debtor, pursuant to the terms of the APA) shall be eliminated by offset, the contribution or distribution of such Claims, or otherwise, including being settled pursuant to the terms of this Plan (as determined by the Debtors).

## **6.3 *Overview of the Second Amended Plan.***

**THE FOLLOWING IS A SUMMARY OF SOME OF THE SIGNIFICANT ELEMENTS OF THE SECOND AMENDED PLAN. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED**

**INFORMATION SET FORTH IN THE SECOND AMENDED PLAN AND THE EXHIBITS AND SCHEDULES THERETO.**

The Second Amended Plan classifies Claims and Interests separately in accordance with the Bankruptcy Code and provides different treatment for different Classes of Claims and Interests. Claims and Interests shall be included in a particular Class only to the extent such Claims or Interests qualify for inclusion within such Class. The Second Amended Plan separates the various Claims and Interests (other than those that do not need to be classified) into twelve (12) separate Classes. These Classes take into account the differing nature and priority of Claims against, and Interests in, the Debtors. Unless otherwise indicated, the characteristics and amounts of the Claims or Interests in the following Classes are based on the books and records of the Debtors.

This section summarizes the treatment of each of the Classes of Claims and Interests under the Second Amended Plan and describes other provisions of the Second Amended Plan. A description of the Sale and the APA are set forth above in Article II. Only holders of Allowed Claims — Claims that are not in dispute, contingent, or unliquidated in amount and are not subject to an objection or an estimation request — and holders of Allowed RG Tube Interests are entitled to receive distributions under the Second Amended Plan. For a more detailed description of the definition of “Allowed,” see Article I of the Second Amended Plan. Until a Disputed Claim or Disputed Interest becomes Allowed, no distributions of Cash or otherwise will be made.

The Debtors believe that they will be able to perform their obligations under the Second Amended Plan. The Debtors also believe that the Second Amended Plan permits fair and equitable recoveries.

The Confirmation Date will be the date that the Confirmation Order is entered by the Clerk of the Bankruptcy Court. The Effective Date will be the first Business Day on or after the Confirmation Date on which all of the conditions to the Effective Date specified in Section 11.2 of the Second Amended Plan have been satisfied or waived, including the consummation of the transactions contemplated by the Second Amended Plan.

The Debtors anticipate that the Effective Date will occur on or prior to June 16, 2010. Resolution of any challenges to the Second Amended Plan may take time and, therefore, the actual Effective Date cannot be predicted with certainty.

Other than as specifically provided in the Second Amended Plan, the treatment under the Second Amended Plan of each Claim and Interest will be in full satisfaction, settlement, release and discharge of all Claims or Interests. The Debtors will make all payments and other distributions to be made under the Second Amended Plan unless otherwise specified.

All Claims and Interests, except DIP Claims, Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims, are placed in the Classes set forth in Article IV of the Second Amended Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, DIP Claims, Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims have not been classified, and the holders thereof are not entitled to vote on the

Second Amended Plan. A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes.

A Claim or Interest also is placed in a particular Class for all purposes, including voting, confirmation and distribution under the Second Amended Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. However, a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to the Second Amended Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date.

(a) **Unclassified Claims.**

(1) **DIP Claims.**

In full satisfaction, settlement, release and discharge of the Allowed DIP Claims, on the Effective Date the holders of Allowed DIP Claims shall be paid in full in Cash. The liens and security interests securing the DIP Claims shall continue in full force and effect until the DIP Claims have been paid in full in Cash.

(2) **Administrative Expense Claims.**

Time for Filing Administrative Expense Claims: The holder of an Administrative Expense Claim, other than the holder of:

- a. a Fee Claim;
- b. an Administrative Expense Claim subject to the Administrative Expense Claim Bar Date Order;
- c. an Administrative Expense Claim that has been Allowed on or before the Effective Date;
- d. an Administrative Expense Claim for an expense or liability incurred and payable in the ordinary course of business by a Debtor;
- e. an Administrative Expense Claim on account of fees and expenses incurred on or after the Petition Date by ordinary course professionals retained by the Debtors pursuant to an order of the Bankruptcy Court;
- f. an Assumed Liability under the APA;
- g. an Ad Hoc Senior Noteholders Committee Fee Claim;
- h. a Senior Notes Indenture Trustee Claim;

- i. a RGCH PIK Notes Agent Claim; and
- j. an Ad Hoc RGCH PIK Noteholders Committee Fee Claim,

must file with the Bankruptcy Court and serve on the Debtors, the Claims Agent, the Creditors' Committee and the Office of the United States Trustee, proof of such Administrative Expense Claim **within thirty (30) days after the Effective Date**. Such proof of Administrative Expense Claim must include at a minimum: (i) the name of the applicable Debtor that is purported to be liable for the Administrative Expense Claim and if the Administrative Expense Claim is asserted against more than one Debtor, the exact amount asserted to be owed by each such Debtor; (ii) the name of the holder of the Administrative Expense Claim; (iii) the amount of the Administrative Expense Claim; (iv) the basis of the Administrative Expense Claim; and (v) supporting documentation for the Administrative Expense Claim. **FAILURE TO FILE AND SERVE SUCH PROOF OF ADMINISTRATIVE EXPENSE CLAIM TIMELY AND PROPERLY SHALL RESULT IN THE ADMINISTRATIVE EXPENSE CLAIM BEING FOREVER BARRED AND DISCHARGED.**

Treatment of Administrative Expense Claims: Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date an Administrative Expense Claim becomes an Allowed Claim, the holder of such Allowed Administrative Expense Claim shall receive from the applicable Debtor Cash in an amount equal to such Allowed Claim; provided, however, that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors, as debtors in possession, shall be paid by the applicable Debtor, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any orders or agreements governing, instruments evidencing, or other documents relating to, such liabilities; provided, further, however, that any Administrative Expense Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Administrative Expense Claim.

In the case of the Senior Notes Indenture Trustee Claims, such Claims will be paid in the ordinary course of business (subject to the Debtors' prior receipt of invoices and reasonable documentation in connection therewith and without the requirement to file a fee application with the Bankruptcy Court) but no later than the Effective Date; provided, that such fees, costs and expenses are reimbursable under the terms of the Senior Notes Indenture; and provided further, however, that the Senior Notes Indenture Trustee will receive payment in the ordinary course of business (subject to the Debtors' prior receipt of invoices and reasonable documentation in connection therewith) for all reasonable fees, costs, and expenses incurred after the Effective Date in connection with the distributions required pursuant to the Second Amended Plan or the implementation of any provisions of the Second Amended Plan.

In the case of the Ad Hoc Senior Noteholders Committee Fee Claims, such Claims will be paid in full in Cash on the Effective Date for all reasonable, documented fees and

expenses incurred up to the Effective Date (without the requirement to file a fee application with the Bankruptcy Court). In the event that the Debtors dispute all or a portion of the Ad Hoc Senior Noteholders Committee Fee Claims, the Debtors shall pay the undisputed amount of such Claims, and reserve the Cash allocable to the remaining portion of such Claims until such dispute is resolved by the parties or by the Bankruptcy Court.

In the case of the Ad Hoc RGCH PIK Noteholders Committee Fee Claims, such Claims will be paid in full in Cash on the later of the Effective Date and 14 days after receipt by the Debtors of invoices demonstrating reasonable documented fees and expenses, without the requirement to file a fee application with the Bankruptcy Court. In the event that the Debtors dispute all or a portion of the Ad Hoc RGCH PIK Noteholders Committee Fee Claims, the Debtors shall pay the undisputed amount of such Claims, and reserve the Cash allocable to the remaining portion of such Claims until such dispute is resolved by the parties or by the Bankruptcy Court.

In the case of the RGCH PIK Notes Agent Claims, such Claims will be paid in the ordinary course of business (subject to the Debtors' prior receipt of invoices demonstrating reasonable documented fees and expenses, and without the requirement to file a fee application with the Bankruptcy Court) on or as soon as reasonably practicable after the Effective Date; provided, that such fees, costs and expenses are reimbursable under the terms of the RGCH PIK Notes Credit Agreement.

### (3) Fee Claims.

Time for Filing Fee Claims: Any Professional Person seeking allowance by the Bankruptcy Court of a Fee Claim shall file its respective final application for allowance of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date no later than forty-five (45) days after the Effective Date. **FAILURE TO FILE AND SERVE SUCH FEE APPLICATION TIMELY AND PROPERLY SHALL RESULT IN THE FEE CLAIM BEING FOREVER BARRED AND DISCHARGED.**

Objections to such Fee Claims, if any, must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than sixty-five (65) days after the Effective Date or such other date as established by the Bankruptcy Court; provided, however, that on the Effective Date, without the requirement to file a fee application with the Bankruptcy Court, the Debtors shall pay the Ad Hoc Senior Noteholders Committee Fee Claims, in accordance with Section 3.2(b) of the Second Amended Plan, in full in Cash.

Treatment of Fee Claims: All Professional Persons seeking allowance by the Bankruptcy Court of a Fee Claim shall be paid in full in such amounts as are approved by the Bankruptcy Court: (i) upon the later of (x) the Effective Date, and (y) ten (10) calendar days after the date upon which the order relating to the allowance of any such Fee Claim is entered or (ii) upon such other terms as may be mutually agreed upon between the holder of such Fee Claim and the Debtors. On the Effective Date, to the extent known, the Debtors shall reserve and hold in a segregated account or shall place in escrow Cash in an amount equal to the accrued but unpaid Fee Claims as of the Effective Date, which Cash shall be disbursed solely to the holders of Allowed Fee Claims with the remainder to be reserved until all Allowed Fee Claims have

been paid in full or all remaining Fee Claims have been Disallowed by Final Order, at which time any remaining Cash in the segregated account shall become the sole and exclusive property of the Debtors, to be distributed in accordance with the terms of the Plan.

**(4) U.S. Trustee Fees.**

Each of the Debtors shall pay all outstanding U.S. Trustee Fees of such Debtor on an ongoing basis on the later of: (i) the Effective Date; and (ii) the date such U.S. Trustee Fees become due, until such time as a final decree is entered closing the applicable Chapter 11 Case or the applicable Chapter 11 Case is converted or dismissed, or the Bankruptcy Court orders otherwise.

**(5) Priority Tax Claims.**

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to different treatment, each holder of an Allowed Priority Tax Claim shall receive, in the applicable Debtors' discretion, either: (i) on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date a Priority Tax Claim becomes an Allowed Claim, Cash in an amount equal to such Claim, or (ii) deferred Cash payments following the Effective Date, over a period ending not later than five (5) years after the Petition Date, in an aggregate amount equal to the Allowed amount of such Priority Tax Claim (with any interest to which the holder of such Priority Tax Claim may be entitled calculated in accordance with section 511 of the Bankruptcy Code); provided, however, that all Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business as they become due; provided, further, however, that any Priority Tax Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Priority Tax Claim.

**Interest Will Not Accrue After Petition Date**

Unless otherwise specified in the Second Amended Plan or by order of the Bankruptcy Court, no interest will accrue or be paid on an Allowed Claim, for any purpose, on or after the Petition Date

**(b) Classification of Claims and Interests.**

**(1) Priority Non-Tax Claims (Class 1).**

Voting: Class 1 is unimpaired and deemed to accept the Second Amended Plan. For this reason, holders of Priority Non-Tax Claims are not entitled to vote.

Treatment Under the Second Amended Plan: Except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to different treatment and after the date a Priority Non-Tax Claim becomes an Allowed Claim, on, or as soon thereafter as is reasonably



practicable, the Initial Distribution Date, the holder of such Allowed Priority Non-Tax Claim shall receive Cash from the applicable Debtor in an amount equal to such Claim; provided, however, that any Priority Non-Tax Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Priority Non-Tax Claim.

**(2) Other Secured Claims (Class 2).**

Voting: Class 2 is unimpaired and deemed to accept the Second Amended Plan. For this reason, holders of Other Secured Claims are not entitled to vote.

Treatment Under the Second Amended Plan: Except to the extent that a holder of an Allowed Other Secured Claim agrees to different treatment and after the date an Other Secured Claim becomes an Allowed Claim, on, or as soon thereafter as is reasonably practicable, the Initial Distribution Date, each holder of such Allowed Other Secured Claim shall receive, at the election of the Debtors: (i) Cash in an amount equal to such Allowed Claim; (ii) such other treatment that will render the Other Secured Claim unimpaired pursuant to section 1124 of the Bankruptcy Code; or (iii) the return of property securing such Allowed Other Secured Claim; provided, however, that Class 2 Claims incurred by a Debtor in the ordinary course of business may be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto, in the discretion of the applicable Debtor, without further notice to or order of the Bankruptcy Court; provided, further, however, that any Other Secured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Other Secured Claim. Each holder of an Allowed Other Secured Claim shall retain the Liens securing its Allowed Other Secured Claim as of the Effective Date until full and final payment or other satisfaction of such Allowed Other Secured Claim is made as provided in the Second Amended Plan. On the full payment or other satisfaction of such Claims in accordance with the Second Amended Plan, the Liens securing such Allowed Other Secured Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person.

Deficiency Claims: To the extent that the value of the Collateral securing each Allowed Other Secured Claim is less than the amount of such Allowed Other Secured Claim, the undersecured portion of such Allowed Other Secured Claim shall be treated for all purposes under the Second Amended Plan as an Allowed General Unsecured Claim and shall be classified as a General Unsecured Claim against the applicable Debtor.

**(3) Prepetition Secured Credit Agreement Claims (Class 3(a)).**

Voting: Class 3(a) is unimpaired and deemed to accept the Second Amended Plan. For this reason, holders of Prepetition Secured Credit Agreement Claims are not entitled to vote.

Allowance: Except to the extent that the Prepetition Secured Credit Agreement Claims of the Prepetition Secured Lender and the Prepetition Secured Agent are otherwise paid prior to the Effective Date, such Prepetition Secured Credit Agreement Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person, in an aggregate amount equal to (i) \$52,747,405.02, plus (ii) any accrued and unpaid interest at the non-default contract rate under the Prepetition Secured Credit Agreement as of the Effective Date, except to the extent such interest is otherwise provided in the Second Amended Plan to be paid or satisfied, plus (iii) unpaid professional fees and expenses, as provided for in the Prepetition Secured Credit Agreement and the DIP Orders, plus (iv) all other Obligations (as defined in the Prepetition Secured Credit Agreement); provided that, with respect to section 5.3(a)(iii) and (iv) of the Second Amended Plan, the Prepetition Secured Agent must provide a written notice to the Debtors (with a copy to counsel for the Debtors) of any such unpaid professional fees and expenses and unpaid Obligations no later than two days prior to the Effective Date. In the event the Debtors dispute any such professional fees, expenses or Obligations, the Debtors shall pay the undisputed amount of such professional fees, expenses or Obligations, and segregate the remaining portion of such professional fees, expenses or Obligations until such dispute is resolved by the parties or by the Bankruptcy Court.

Treatment Under the Second Amended Plan: To the extent not already paid in full prior to the Effective Date pursuant to the terms of DIP Orders or otherwise, on the Effective Date, or as soon as practicable thereafter, the Allowed Prepetition Secured Credit Agreement Claims shall be paid in full, in Cash, in complete and final satisfaction, settlement, release, and discharge of, and in exchange for such Allowed Claims.

**(4) Rath General Unsecured Claims (Class 3(b)).**

Voting: Class 3(b) is impaired and the holders of Rath General Unsecured Claims are entitled to vote to accept or reject the Second Amended Plan.

Treatment Under the Second Amended Plan: Except to the extent that a holder of an Allowed Rath General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of five (5) Business Days after the Prepetition Ordinary Course of Business Trade Claims Bar Date and the next Interim Distribution Date immediately following the date that a Rath General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed Rath General Unsecured Claim shall receive its Pro Rata Share of the Class 3(b) Distribution; provided, however, that any Rath General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefore, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Allowed Rath General Unsecured Claim.

**(5) Existing Rath Interests (Class 3(c)).**

Voting: Class 3(c) is impaired, but because the holders of Existing Rath Interests are proponents of the Second Amended Plan and, thus, have consented to the filing of the Second

Amended Plan and approval of the treatment afforded to such holders, Class 3(c) is deemed to have accepted the Second Amended Plan. For this reason, holders of Existing Rath Interests are not entitled to vote.

Treatment Under the Second Amended Plan: Existing Rath Interests shall be cancelled and holders of Existing Rath Interests shall not be entitled to any distribution under the Plan.

**(6) Greenville General Unsecured Claims (Class 4(a)).**

Voting: Class 4(a) is impaired and the holders of Greenville General Unsecured Claims are entitled to vote to accept or reject the Second Amended Plan.

Treatment Under the Second Amended Plan: Except to the extent that a holder of an Allowed Greenville General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of five (5) Business Days after the Prepetition Ordinary Course of Business Trade Claims Bar Date and the next Interim Distribution Date immediately following the date that a Greenville General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed Greenville General Unsecured Claim shall receive its Pro Rata Share of the Class 4(a) Distribution; provided, however, that any Greenville General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Allowed Greenville General Unsecured Claim.

**(7) Existing Greenville Interests (Class 4(b)).**

Voting: Class 4(b) is impaired, but because the holders of Existing Greenville Interests are proponents of the Second Amended Plan and, thus, have consented to the filing of the Second Amended Plan and approval of the treatment afforded to such holders, Class 4(b) is deemed to have accepted the Second Amended Plan. For this reason, holders of Existing Greenville Interests are not entitled to vote.

Treatment Under the Second Amended Plan: Existing Rath Interests shall be cancelled and holders of Existing Rath Interests shall not be entitled to any distribution under the Second Amended Plan.

**(8) RGCH PIK Notes Claims (Class 5(a)).**

Voting: Class 5(a) is impaired and the holders of RGCH PIK Notes Claims are entitled to vote to accept or reject the Second Amended Plan.

Treatment Under the Second Amended Plan: As part of the settlements and compromises contained in the Second Amended Plan, the RGCH PIK Notes Claims shall be deemed Allowed Claims against RGCH as of the Effective Date and, on the first Business Day after the Effective Date, or as soon thereafter as reasonably practicable, each holder of an Allowed RGCH PIK Notes Claim shall receive, subject to the terms of the Second Amended

Plan and in full satisfaction, settlement, release and discharge of, and in exchange for, such Claim its Pro Rata Share of the Class 5(a) Distribution; provided, however, that Allowed RGCH PIK Notes Claims shall not receive or retain any distribution under the Second Amended Plan on account of their RGCH PIK Notes Claims if Class 5(a) does not vote to accept the Second Amended Plan.

**(9) RGCH General Unsecured Claims (Class 5(b)).**

Voting: Class 5(b) is impaired and the holders of RGCH General Unsecured Claims are entitled to vote to accept or reject the Second Amended Plan.

Treatment Under the Second Amended Plan: Except to the extent that a holder of an Allowed RGCH General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the next Interim Distribution Date immediately following the date that a RGCH General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed RGCH General Unsecured Claim shall receive its Pro Rata Share of the Class 5(b) Distribution; provided, however, that any RGCH General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such RGCH General Unsecured Claim.

**(10) Existing RGCH Interests (Class 5(c)).**

Voting: Class 5(c) is impaired, but because the holders of Existing RGCH Interests are proponents of the Second Amended Plan and, thus, have consented to the filing of the Second Amended Plan and approval of the treatment afforded to such holders, Class 5(c) is deemed to have accepted the Second Amended Plan. For this reason, holders of Existing RGCH Interests are not entitled to vote.

Treatment Under the Second Amended Plan: Existing RGCH Interests shall be cancelled and holders of Existing RGCH Interests shall not be entitled to any distribution under the Second Amended Plan.

**(11) RG Tube General Unsecured Claims (Class 6(a)).**

Voting: Class 6(a) is impaired and the holders of RG Tube General Unsecured Claims are entitled to vote to accept or reject the Second Amended Plan.

Treatment Under the Second Amended Plan: Except to the extent that a holder of an Allowed RG Tube General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the next Interim Distribution Date immediately following the date that a RG Tube General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed RG Tube General Unsecured Claim shall receive its Pro Rata Share of the Class 6(a) Distribution; provided, however, that any RG Tube General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such RG Tube General Unsecured Claim.

**(12) Existing RG Tube Interests (Class 6(b)).**

Voting: Class 6(a) is impaired and the holders of RG Tube Interests are entitled to vote to accept or reject the Second Amended Plan.

Treatment Under the Second Amended Plan: As part of the settlements and compromises contained in the Second Amended Plan, each holder of an Allowed Existing RG Tube Interest shall receive, subject to the terms of the Second Amended Plan and in full satisfaction, settlement, release and discharge of, and in exchange for, such Allowed Existing RG Tube Interest, its Pro Rata Share of the Class 6(b) Distribution.

**6.4 *Acceptance or Rejection of the Second Amended Plan; Effect of Rejection by One or More Classes of Claims or Interests***

**(a) Class Acceptance Requirement.**

1. A Class of Claims shall have accepted the Second Amended Plan if it is accepted by at least two-thirds (2/3) in amount of the Allowed Claims in such Class, and more than one-half (1/2) in number of holders of such Claims that have voted on the Second Amended Plan.
2. A Class of Interests shall have accepted the Second Amended Plan if it is accepted by at least two-thirds (2/3) in amount of the Allowed Interests in such Class that have voted on the Second Amended Plan.

**(b) Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code or “Cramdown.”**

If any Classes vote to reject the Second Amended Plan, the Debtors intend to request confirmation of the Second Amended Plan, as it may be modified and amended from time to time, under section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to alter, amend, modify, revoke or withdraw the Second Amended Plan or any Plan Document, as to any and all Debtors, in order to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary.

(c) **Elimination of Vacant Classes.**

Any Class of Claims or Interests that does not have a holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Second Amended Plan for purposes of voting to accept or reject the Second Amended Plan and for purposes of determining acceptance or rejection of the Second Amended Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

(d) **Voting Classes; Deemed Acceptance by Non-Voting Classes.**

If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Second Amended Plan, the Second Amended Plan shall be deemed accepted by the holders of such Claims or Interests in such Class.

**Important Note on Estimates**

The estimates in the tables and summaries in this Disclosure Statement may differ from actual distributions because of variations in the asserted or estimated amounts of Allowed Claims and Allowed Interests, the existence of Disputed Claims, Disputed Interests and other factors, including the potential downward adjustment of the Purchase Price. Statements regarding projected amounts of Claims, Interests or distributions (or the value of such distributions) are estimates by the Debtors based on current information and are not representations as to the accuracy of these amounts. Except as otherwise indicated, these statements are made as of March 8, 2010, and the delivery of this Disclosure Statement will not, under any circumstances, imply that the information contained in this Disclosure Statement is correct at any other time. Any estimates of Claims or Interests in this Disclosure Statement may vary from the final amounts of Claims or Interests allowed by the Bankruptcy Court.

**6.5 Means for Implementation.**

(a) **Non-Substantive Consolidation.**

The Second Amended Plan is a joint chapter 11 plan that does not provide for substantive consolidation of the Debtors' estates, and on the Effective Date, the Debtors' estates shall not be deemed to be substantively consolidated for purposes of the Second Amended Plan. Except as specifically set forth in the Second Amended Plan, nothing in the Second Amended Plan or the Disclosure Statement shall constitute or be deemed to constitute an admission that any one of the Debtors is subject to or liable for any claim against any other Debtor. Additionally, claimants holding Claims against multiple Debtors, to the extent Allowed in each Debtor's Chapter 11 Case, will be treated as holding a separate Claim against each Debtor's

estate, provided, however, that no holder of an Allowed Claim shall be entitled to receive more than payment in full of such Allowed Claim (plus postpetition interest, if and to the extent provided in the Second Amended Plan), and such Claims or Interests will be administered and treated in the manner provided in the Second Amended Plan.

**(b) Sale of the Purchased Assets.**

Upon entry of the Confirmation Order, the Debtors shall be authorized to, among other things, sell, assume, assign and/or transfer the Purchased Assets pursuant to sections 105(a), 363, 365, 1123(b)(4), 1129 and 1146(a) of the Bankruptcy Code under the terms and conditions of the APA, and shall be authorized to take any and all actions necessary to consummate the Sale. Any such Sale shall be entered into in accordance all applicable orders of the Bankruptcy Court. The actions necessary to effect the sale of the Purchased Assets may include: (i) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, duty or obligation on terms consistent with the terms of the APA and the Second Amended Plan and having such other terms to which the Debtors and the Purchaser may agree, and (ii) all other actions that the Debtors and the Purchaser determine to be necessary or appropriate in connection with such transactions, including making such filings or recordings that may be required by or appropriate under applicable state law.

The solicitation of votes on the Second Amended Plan in accordance with the order approving the Disclosure Statement shall be deemed to be a solicitation of the holders of Claims and Interests for the approval of the APA and the Sale. Entry of the Confirmation Order shall constitute approval of any agreements and transactions related to the Sale.

**(c) Plan Funding.**

The Debtors' obligations under the Second Amended Plan and the fees and expenses of the Debtors will be funded out of the proceeds from the Sale. Proceeds from the Sale shall be used as follows: (i) first, to satisfy Allowed DIP Claims, Allowed Administrative Expense Claims, Allowed Fee Claims, U.S. Trustee Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims and Allowed Other Secured Claims; (ii) second, to fund the Wind Down Account; and (iii) third, to satisfy the Debtors' other obligations under the Second Amended Plan, in accordance with the terms thereof. To the extent that amounts deposited in the Wind Down Account are insufficient, the Debtors may withdraw Cash from the Claims reserves for unsecured claims established by the Plan Administrator as set forth in the Second Amended Plan.

Except as provided in Section 7.2(a)(i) and (a)(ii) of the Second Amended Plan, RGCH's and RG Tube's obligations under the Second Amended Plan and the fees and expenses of such Debtors will be funded solely from the RG Tube Cash in accordance with the terms of the Second Amended Plan.

**(d) Continued Corporate Existence and Vesting of Assets.**

Except as otherwise provided in the Second Amended Plan, the Debtors will continue to exist after the Effective Date as separate corporate entities, in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized, for the purposes of satisfying their obligations under the Second Amended Plan, including making distributions as required under the Second Amended Plan and effectuating the Wind Down. On or after the Effective Date, each Debtor, in its sole and exclusive discretion, may take such action



as permitted by applicable law as such Debtor may determine is reasonable and appropriate, including, but not limited to, causing: (i) a Debtor to be merged into another Debtor, or its Subsidiary or affiliate; (ii) a Debtor to be dissolved; (iii) the legal name of a Debtor to be changed; or (iv) the closing of a Debtor's case on the Effective Date or any time thereafter.

On and after the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, and except as otherwise provided in the Plan or in the Confirmation Order, all property of the Debtors' Estates, including all claims, rights and Causes of Action (but excluding, for the avoidance of doubt, any Purchased Asset other than a Nonassignable Asset (as defined in the APA)), shall vest in each respective Debtor free and clear of all Claims, Liens, charges, other encumbrances and Interests (other than, with respect to any of the Nonassignable Assets, any Liens, charges or other encumbrances created under the APA). Subject to Section 7.3(a) of the Second Amended Plan, on and after the Effective Date, the Debtors may effectuate the Wind Down of the Estates, including payment of all Wind Down Costs, and may use, acquire and dispose of property and prosecute, compromise or settle any Claims (including any Administrative Expense Claims) and Causes of Action (in each case that are not Purchased Assets or Assumed Liabilities) without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules other than restrictions expressly imposed by the Plan or the Confirmation Order. Without limiting the foregoing, the Debtors may pay the charges that they incur on or after the Effective Date for Professional Persons' fees, disbursements, expenses or related support services without application to the Bankruptcy Court. Notwithstanding anything contained in the Second Amended Plan or in the APA to the contrary, the Debtors shall not be required to delay or otherwise alter the completion of the Wind Down.

**(e) Cancellation of Credit Agreements, Existing Securities and Agreements.**

Except for the purpose of evidencing a right to distribution under the Second Amended Plan, and except as otherwise set forth in the Second Amended Plan, on the Effective Date all agreements, instruments, and other documents evidencing any Claim against or Interest in a Debtor and any rights of any holder in respect thereof, shall be deemed cancelled, discharged and of no force or effect. Notwithstanding the foregoing, pursuant to the settlements and compromises set forth in the Second Amended Plan: (i) the Senior Notes Indenture shall continue in effect to the extent necessary to allow the Debtors and the Senior Notes Indenture Trustee and/or the Disbursing Agent to make distributions pursuant to this Second Amended Plan on account of Allowed Rath General Unsecured Claims that are Allowed Senior Notes Claims, and the Senior Notes Indenture Trustee shall maintain any charging lien such Senior Notes Indenture Trustee may have for any fees, costs and expenses under the Senior Notes Indenture or other agreements until all such fees, costs, and expenses are paid pursuant to the Second Amended Plan or otherwise; provided, however, that such rights and liens are limited to the distributions, if any, to the holders of Senior Notes; and (ii) the applicable provisions of the RGCH PIK Notes Credit Agreement shall continue in effect solely for the purposes of permitting the RGCH PIK Notes Agent and/or the Disbursing Agent to make distributions pursuant to the Second Amended Plan on account of Allowed RGCH PIK Notes Claims, and the RGCH PIK Notes Agent shall maintain any charging lien such RGCH PIK Notes Agent may have for any

fees, costs and expenses under the RGCH PIK Notes Credit Agreement or other agreements until all such fees, costs, and expenses are paid pursuant to the Second Amended Plan or otherwise. The holders of or parties to such cancelled instruments, securities and other documentation will have no rights arising from or relating to such instruments, securities and other documentation or the cancellation thereof, except the rights provided for pursuant to the Second Amended Plan. Except as provided pursuant to the Second Amended Plan, the Senior Notes Indenture Trustee and the RGCH PIK Notes Agent and each of their respective agents, successors and assigns shall be discharged of all of their obligations associated with the Senior Notes and the RGCH PIK Notes, as applicable.

(f) **Corporate Governance.**

From and after the Effective Date, each of the Debtors shall be managed and administered through the Plan Administrator, who shall be appointed the sole officer of each of the Debtors and shall have full authority to administer the provisions of the Second Amended Plan. The Plan Administrator may employ one or more Persons to assist it with performing its duties under the Second Amended Plan.

(g) **Plan Administrator.**

1. Appointment; Duties. Not less than ten (10) days prior to the commencement of the Confirmation Hearing and subject to Bankruptcy Court approval in connection with confirmation of the Second Amended Plan, the Debtors, in consultation with the Committee, shall designate the person who initially will serve as the Plan Administrator; provided, however, that: (i) the Debtors shall have the right at any time prior to the Effective Date to remove the Plan Administrator without cause; and (ii) the Plan Administrator shall be subject to removal by the Bankruptcy Court for cause shown at any time. On or after the Confirmation Date but prior to the Effective Date, the Plan Administrator shall assume all of its obligations, powers and authority under the Second Amended Plan to: (i) establish bank accounts as may be required to fulfill the Debtors' obligations under the Second Amended Plan; and (ii) exercise such other power and authority as may be set forth in the Confirmation Order (collectively, the "Pre-Effective Date PA Duties"). On the Effective Date, the Plan Administrator shall assume all of its other obligations, powers and authority under the Second Amended Plan.

2. Qualifications; Plan Administrator Agreement. The Plan Administrator shall be a fiduciary of each of the Debtors and the Estates shall have such qualifications and experience as are sufficient to enable the Plan Administrator to perform its obligations under the Second Amended Plan and under the Plan Administrator Agreement, and shall be compensated and reimbursed for expenses as set forth in, and in accordance with, the Plan Administrator Agreement. To the extent necessary, following the Effective Date, the Plan Administrator shall be deemed to be a judicial substitute for the Debtors as the party-in-interest in the Chapter 11 Cases, under the Second Amended Plan or in any judicial proceeding or appeal to which the Debtors are a party, consistent with section 1123(b)(3)(B) of the Bankruptcy Code.

The Plan Administrator shall not be liable for any action it takes or omits to take that it believes in good faith to be authorized or within its rights or powers unless it is ultimately

and finally determined by a court of competent jurisdiction that such action or inaction was the result of fraud, gross negligence or willful misconduct.

The Plan Administrator Agreement and the Confirmation Order shall provide that: (i) the Plan Administrator shall be a fiduciary of each of the Debtors and the Estates; (ii) neither the Debtors (except as expressly set forth in the Plan Administrator Agreement) nor their respective boards of directors, managements, employees and professionals shall have any liability for any action taken or omitted to be taken by the Plan Administrator in performing the Pre-Effective Date PA Duties and all Persons are enjoined from pursuing any Claims against the foregoing pursuant to the Second Amended Plan on account of any such action taken or omitted to be taken); (iii) any determinations made by the Plan Administrator with respect to the establishment of reserves under the Second Amended Plan shall not be binding on any party if the Effective Date fails to occur; and (iv) if the Second Amended Plan is withdrawn or otherwise abandoned prior to the occurrence of the Effective Date, the Plan Administrator position shall thereafter be dissolved.

3. Debtors' Stock. On the Effective Date, a single share of stock shall be issued by each Debtor to the Plan Administrator.

4. Disputed Reserves. On the Effective Date, the Debtors shall transfer to the Plan Administrator all assets held in each of the reserves being held by Debtors, including reserves for Disputed Claims, if any, and the Plan Administrator shall establish such reserves, holdbacks and funds as may be required by the Second Amended Plan.

5. Resignation, Death, or Removal. The Plan Administrator may be removed by the Bankruptcy Court upon application for good cause shown. In the event of the resignation or removal, liquidation, dissolution, death or incapacity of the Plan Administrator, the Bankruptcy Court shall designate another Person to become Plan Administrator and thereupon the successor Plan Administrator, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of its predecessor.

6. Wind Down Funds. The Plan Administrator shall establish the Wind Down Account and any excess funds remaining after effecting the Wind Down shall be distributed in accordance with the terms of the Second Amended Plan.

**(h) Wind Down of the Debtors' Estates.**

The Plan Administrator shall oversee the Wind Down and shall make distributions to, and otherwise hold all property of the Estates for the benefit of, holders of Allowed Claims and Allowed Interests consistent and in accordance with the Second Amended Plan and the Confirmation Order. The Debtors (including the Plan Administrator as the sole shareholder of the Debtors) shall not be required to post a bond in favor of the United States.

As set forth in the Plan Administrator Agreement, the Plan Administrator shall have the power and authority to perform the following acts, in addition to any powers granted by law or conferred by any other provision of the Second Amended Plan and orders of the Bankruptcy Court: (i) take all steps and execute all instruments and documents necessary to

make distributions to holders of Allowed Claims and Allowed Interests; (ii) object to Claims as provided in the Second Amended Plan and prosecute such objections; (iii) resolve, compromise and/or settle any objections to the amount, validity, priority, treatment, allowance or priority of Claims, Administrative Expenses, or Interests; (iv) comply with the Second Amended Plan and the obligations thereunder; (v) if necessary, employ, retain, or replace professionals to represent it with respect to its responsibilities; (vi) establish, replenish or release reserves as provided in the Second Amended Plan, as applicable; (vii) take all actions necessary or appropriate to enforce the Debtors' rights under the APA and any related document and to fulfill, comply with or otherwise satisfy the Debtors' covenants, agreements and obligations under the APA and any related document; (viii) make all determinations on behalf of the Debtors under the APA; (ix) prepare and file applicable tax returns for any of the Debtors; (x) liquidate any of the Excluded Assets; (xi) deposit Estate funds, draw checks and make disbursements consistent with the terms of the Plan; (xii) purchase or continue insurance protecting the Debtors, the Plan Administrator and property of the Estates; (xiii) seek entry of a final decree in any of the Chapter 11 Cases at the appropriate time; (xiv) prosecute, resolve, compromise and/or settle any litigation; (xv) abandon in any commercially reasonable manner, including abandonment or donation to a charitable organization (as such term is described in Internal Revenue Code section 501(c)(3) (whose contributions are deductible under Internal Revenue Code section 170)) of the Plan Administrator's choice, any Estate assets that are of no material benefit, including distributable Cash under the Second Amended Plan; and (xvi) take such other action as the Plan Administrator may determine to be necessary or desirable to carry out the purpose of the Second Amended Plan.

Following the Effective Date, the Debtors shall not engage in any business activities or take any actions, except those necessary to effectuate the Second Amended Plan, the Wind Down and the compliance with its obligations under the APA. On and after the Effective Date, the Plan Administrator may, in the name of the Debtors, take such action and settle and compromise Claims or Interests without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than any restrictions expressly imposed by the Second Amended Plan or the Confirmation Order.

(i) **Bar Date for Prepetition Ordinary Course Trade Claims.**

Any trade vendor, supplier, or other Person who asserts a Claim related to or arising from goods or services provided to the Debtors in the ordinary course of business (but excluding any claims related to or arising from litigation against the Debtors, litigation-related claims, severance claims, or rejection or termination of an agreement with the Debtors, each of which was required to file Claims as set forth in the Bar Date Order) ("**Prepetition Ordinary Course of Business Trade Claims**") arising prior to the Petition Date must file with the Bankruptcy Court and serve on the Debtors, the Claims Agent, the Creditors' Committee and the Office of the United States Trustee, proof of such Prepetition Ordinary Course of Business Trade Claim **within thirty (30) days after the Effective Date (the "Prepetition Ordinary Course of Business Trade Claims Bar Date")**. Such proof of Prepetition Ordinary Course of Business Trade Claim must include at a minimum: (i) the name of the applicable Debtor that is purported to be liable for the Claim and if the Claim is asserted against more than one Debtor, the exact amount asserted to be owed by each such Debtor; (ii) the name of the holder of the Claim;

(iii) the amount of the Claim; (iv) the basis of the Claim; and (v) supporting documentation for the Claim. **FAILURE TO FILE AND SERVE SUCH PROOF OF SUCH CLAIM TIMELY AND PROPERLY SHALL RESULT IN THE CLAIM BEING FOREVER BARRED AND DISCHARGED AND THE HOLDER OF SUCH CLAIM SHALL NOT BE ENTITLED TO RECEIVE ANY DISTRIBUTION FROM THE DEBTORS OR UNDER THE SECOND AMENDED PLAN ON ACCOUNT OF SUCH CLAIM.** The following Persons are **not** required to file a proof of such Prepetition Ordinary Course of Business Trade Claim on or before the thirty (30) days after the Effective Date:

1. Any Person whose Prepetition Ordinary Course of Business Trade Claim has been paid as of such date;
2. Any Person whose Prepetition Ordinary Course of Business Trade Claim is an Assumed Liability;
3. Any Person that already has properly filed a proof of Claim against one or more of the Debtors on account of such Prepetition Ordinary Course of Business Trade Claim with either The Garden City Group, the Bankruptcy Court-appointed claims agent in the Chapter 11 Cases, or the Clerk of the Bankruptcy Court; or
4. Any Person: (i) whose Prepetition Ordinary Course of Business Trade Claim is listed in the applicable Debtors' Schedules of Assets and Liabilities (the "**Schedules**") filed with the Bankruptcy Court or any amendments thereto, and (ii) whose Prepetition Ordinary Course of Business Trade Claim is not described therein as "disputed," "contingent," or "unliquidated," and (iii) who does not dispute the amount or classification of its Prepetition Ordinary Course of Business Trade Claim as set forth in the Schedules.

**(j) Assumed Liabilities.**

In accordance with the terms of the APA, on the Effective Date, the Purchaser shall be responsible for payment and satisfaction of all Assumed Liabilities. All Persons holding Claims and Interests arising out of or concerning an Assumed Liability, shall be forever barred, estopped and permanently enjoined from asserting against the Debtors or the Plan Administrator and any of their property, such Persons' Claims or Interests (as applicable) arising out of or concerning such Assumed Liabilities. The Purchaser is not assuming, and shall not become liable for the payment of or performance of, any liabilities or other obligations of any of the Debtors of any nature whatsoever, whether accrued or unaccrued, other than the Assumed Liabilities.

**(k) Cancellation of Certain Existing Security Interests.**

Upon the full payment or other satisfaction of an Allowed Other Secured Claim, or promptly thereafter, the holder of such Allowed Other Secured Claim shall deliver to the Debtors any collateral or other property of the Debtors held by such holder, and any termination

statements, instruments of satisfactions, or releases of all security interests with respect to its Allowed Other Secured Claim that may be reasonably required in order to terminate any related financing statements, mortgages, mechanic's liens, or *lis pendens*; provided, however, any such collateral that is a Purchased Asset received by the Debtors from the holder of such Allowed Claim shall be delivered promptly to the Purchaser.

(l) **Officers and Boards of Directors.**

1. Officers. The officers of the Debtors immediately prior to the Effective Date, in their capacities as such, shall be deemed removed from such positions as of the Effective Date and each such officer that is an employee of the Debtors shall be offered employment with the Purchaser as and to the extent set forth in the APA.

2. Boards of Directors. The members of the board of directors or board of managers of each Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations to the Debtors on or after the Effective Date and each such member will be deemed to have resigned on the Effective Date.

3. Plan Administrator as Sole Officer/Director. The Plan Administrator shall be the sole director and officer of each of the Debtors from and following the Effective Date.

(m) **Corporate Action.**

The Debtors shall serve on the United States Trustee quarterly reports of the disbursements made until such time as a final decree is entered closing the applicable Chapter 11 Case or the applicable Chapter 11 Case is converted or dismissed, or the Bankruptcy Court orders otherwise. Any deadline for filing Administrative Expense Claims shall not apply to fees payable pursuant to section 1930 of title 28 of the United States Code.

**6.6 *RG Tube Cash***

In connection with the settlements and compromises embodied in the Second Amended Plan, (i) the RG Tube Cash shall be used as follows: (i) first, to fund the Allowed Claims of the RGCH PIK Notes Agent and the Ad Hoc RGCH PIK Noteholders Committee Advisors; and (ii) second, the remainder shall be distributed in accordance with Section 8.9 of the Second Amended Plan.

**6.7 *Termination of Subordination Rights and Settlement of Related Claims.***

Except as provided in the Second Amended Plan, the classification and manner of satisfying all Claims and Interests and the respective distributions and treatments under the Second Amended Plan take into account or conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code or otherwise, and any and all such rights are settled, compromised and released pursuant to the Second Amended Plan. The Confirmation

Order shall permanently enjoin, effective as of the Effective Date, all Persons and entities from enforcing or attempting to enforce any such contractual, legal and equitable rights satisfied, compromised and settled pursuant to Article XII of the Second Amended Plan.

Pursuant to Bankruptcy Rule 9019 and in consideration of the distributions and other benefits provided under the Second Amended Plan, the provisions of the Second Amended Plan will constitute a good faith compromise and settlement of all claims or controversies relating to the subordination rights that a holder of a Claim or Interest may have or any distribution to be made pursuant to the Second Amended Plan on account of such Claim or Interest. Entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtors, their respective properties, and holders of Claims and Interests, and is fair, equitable and reasonable.

#### **6.8 *Comprehensive Settlement of Claims and Controversies***

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided under the Second Amended Plan, the provisions of the Second Amended Plan will constitute a good faith compromise and settlement of all Claims and Interests or controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Allowed Interest or any distribution to be made pursuant to the Second Amended Plan on account of any Allowed Claim or Allowed Interest, including the Claims asserted against the Debtors by members of the Ad Hoc RGCH PIK Noteholders Committee and all Intercompany Claims between and among the Debtors (including with respect to any related to tax refunds received or to be received from one or more taxing authorities or otherwise). Without limiting the generality of the immediately preceding sentence, the Class 5(a) Distribution, if any, under the Second Amended Plan shall be in full and complete satisfaction of, among other things, potential or actual Intercompany Claims RGCH may have against RathGibson or RG Tube. The entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that all such compromises or settlements are: (a) in the best interests (x) of the Debtors and their respective Estates and property, and (y) of the Claim and Interest Holders; and (b) fair, equitable and reasonable.

#### **6.9 *Treatment of Executory Contracts and Unexpired Leases.***

##### **(a) *General Treatment.***

As of and subject to the occurrence of the Effective Date and payment (or provision of the adequate assurance of payment) of the applicable Cure Costs, to the fullest extent permitted under applicable law, all executory contracts and unexpired leases of the Debtors shall be deemed to be assumed by the applicable Debtor as of the Effective Date, except for any executory contract or unexpired lease that: (i) previously has been assumed and assigned or rejected pursuant to a Final Order of the Bankruptcy Court; (ii) is designated specifically or by

category as a contract or lease to be rejected on the Schedule of Rejected Contracts and Leases;<sup>6</sup> (iii) is the subject of a separate motion to assume and assign to a Person other than the Purchaser or to reject under section 365 of the Bankruptcy Code pending on the Effective Date; provided, however, that, to the fullest extent permitted by applicable law, the Purchaser shall have the right to instruct the Debtors to, and at the instruction of the Purchaser, the Debtors shall, at any time and from time to time prior to ten (10) days prior to the Confirmation Hearing (or such later date as is specified in the APA), amend the Schedule of Rejected Contracts and Leases in the manner set forth in the APA, the Bid Procedures Order, or by any other means approved by the Bankruptcy Court, to add any executory contract or unexpired lease listed therein, thereby providing for the rejection of such executory contract or lease pursuant to the terms hereof or to delete any executory contract or unexpired lease therein, thereby providing for its assumption and assignment pursuant to the terms of the Second Amended Plan. Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumptions, assumptions and assignments and rejections pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Listing a contract or lease in the Schedule of Rejected Contracts and Leases shall not constitute an admission by the applicable Debtor that the applicable Debtor has any liability thereunder.

Except with respect to those insurance policies and any agreements, documents or instruments relating thereto that are listed on the Schedule of Rejected Contracts and Leases, all of the Debtors' insurance policies and any agreements, documents or instruments relating thereto, shall be treated as executory contracts of the applicable Debtor under the Second Amended Plan and the Bankruptcy Code and shall be assumed and assigned to the Purchaser in accordance with the terms of the APA and the Second Amended Plan.

The final Schedule of Rejected Contracts and Leases shall be subject to the prior approval of the Purchaser.

Subject to Section 10.2 of the Second Amended Plan, entry of the Confirmation Order shall, subject to the occurrence of the Effective Date, constitute (i) the approval, pursuant to sections 365(a) and 1123(b) of the Bankruptcy Code, of the assumption and assignment of the executory contracts and unexpired leases assumed and assigned pursuant to Section 10.1(a) and

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<sup>6</sup> Under the Stalking Horse Agreement, the following categories of contracts and leases will not be assumed by the Stalking Horse Bidder, will be listed on the Schedule of Rejected Contracts and Leases and rejected unless the counterparty to a specific contract receives an Assumption Notice (defined below), in which case the applicable contract or lease shall be assumed and assigned to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement and in accordance with sections 365 and 1123 of the Bankruptcy Code: (i) see section 6.10 infra; (ii) any contract pursuant to which any Debtor has a commitment, undertaking, arrangement or commitment to make loans or otherwise extend credit to any Person (other than any of any such contract consisting of extensions of credit in the nature of accounts receivable arising from the grant of trade credit in the ordinary course of business); and (iii) any contract relating to the offer, subscription, issuance, sale or distribution of, or rights (including voting rights), restrictions or obligations relating to, shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership, equity or profits interests or units in) a Debtor, and all warrants, options, rights or other securities for the purchase, acquisition or exchange from a seller of any shares of capital stock of (or other ownership, equity or profits interests or units in) a Debtor (including through any convertible securities).



Section 10.1(b) of the Second Amended Plan; and (ii) the approval, pursuant to sections 365(a) and 1123(b) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases listed on the Schedule of Rejected Contracts and Leases pursuant to Section 10.1(a) or Section 10.1(b) of the Second Amended Plan.

(b) **Claims Based on Rejection of Executory Contracts or Unexpired Leases.**

All Claims arising from the rejection of executory contracts or unexpired leases, if any, will be treated as General Unsecured Claims. Upon receipt of their applicable Plan Distribution pursuant to Article V of the Second Amended Plan, all such Claims shall be discharged on the Effective Date, and shall not be enforceable against the Debtors, the Purchaser or their respective properties or interests in property (and shall not, for the avoidance of doubt, constitute Assumed Liabilities).

*Each Person who is a party to a contract or lease rejected under the Second Amended Plan must file with the Bankruptcy Court and serve on the Debtors, not later than thirty (30) days after the Effective Date, a proof of claim for damages alleged to arise from the rejection of the applicable contract or lease or be forever barred from filing a Claim, or sharing in distributions under the Second Amended Plan, related to such alleged rejection damages.*

(c) **Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.**

Within five (5) Business Days after entry of the Bid Procedures Order, the Debtors shall serve a notice (the "**Assumption Notice**") on the applicable counterparty of potential assumption and assignment of the executory contracts and unexpired leases that are anticipated to be assumed and assigned to the Purchaser (the "**Assigned Contracts**") and the amount, if any, that the Debtors contend is the amount needed to cure any defaults and pecuniary losses with respect to such Assigned Contracts (the "**Cure Costs**"); provided, however, except as designated specifically or by category as a contract or lease to be rejected on the Schedule of Rejected Contracts and Leases, all executory contracts and unexpired leases shall be assumed by the Debtors and assigned to the Purchaser and, to the extent a counterparty to an Assigned Contract does not receive an Assumption Notice, the Cure Cost for such executory contract or unexpired lease shall be \$0.00. If the Debtors identify additional executory contracts and unexpired leases that might be assumed by the Debtors and assigned to the Purchaser, the Debtors will promptly send a supplemental Assumption Notice to the applicable counterparties to such contract or lease.

Except to the extent that less favorable treatment has been agreed to by the non-Debtor party or parties to each such executory contract or lease, the Purchaser (or the Debtors if so specified in the APA) shall cure any monetary defaults arising under each executory contract and lease to be assumed pursuant to the Second Amended Plan and assigned to the Purchaser pursuant to Section 10.1(a) or Section 10.1(b) of the Second Amended Plan, in accordance with section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Cost on the later of: (i) the Effective Date or as soon thereafter as is reasonably practicable; and (ii) the date on which the

Cure Cost has been resolved (either consensually or through judicial decision, subject, in any such case, to the terms and conditions of the APA) or as soon thereafter as is reasonably practicable.

Any party that fails to object to the applicable Cure Cost listed on the Assumption Notice by 5:00 p.m. (prevailing Eastern time) on the later of: (i) April 15, 2010, or (ii) eight (8) days after service of the supplemental Assumption Notice on such party, (a) shall be forever barred, estopped and enjoined from (x) disputing the Cure Cost relating to any executory contract or unexpired lease set forth on the Assumption Notice or, if no Assumption Notice is received and such executory contract or unexpired lease is not listed on the Schedule of Rejected Contracts and Leases, a Cure Cost of \$0.00, and (y) asserting any Claim against the applicable Debtor arising under section 365(b)(1) of the Bankruptcy Code other than as set forth on the Assumption Notice or, if no Assumption Notice is received and such executory contract or unexpired lease is not listed on the Schedule of Rejected Contracts and Leases, a Claim in the amount of \$0.00; and (b) shall be deemed to have consented to the assumption and assignment of such executory contract and unexpired lease and shall be forever barred and estopped from asserting or claiming against the Debtors, the Purchaser or any other assignee of the relevant executory contract or unexpired lease that any additional amounts are due or defaults exist, or conditions to assumption and assignment of such executory contract or unexpired lease must be satisfied (pursuant to section 365(b)(1) of the Bankruptcy Code or otherwise). Any objection relating to the Cure Cost shall specify the Cure Cost proposed by the counterparty to the applicable contract or lease.

In the event of a dispute (each, a “**Cure Dispute**”) regarding: (i) any Cure Cost; (ii) the ability of the Debtors or the Purchaser to demonstrate “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under any contract or lease to be assumed; or (iii) any other matter pertaining to the proposed assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made at the times set forth in Section 10.3(b) of the Second Amended Plan following the entry of a Final Order resolving such Cure Dispute and approving the assumption. To the extent a Cure Dispute relates solely to a Cure Cost, the applicable Debtor may assume and assign the applicable contract or lease prior to the resolution of the Cure Dispute provided that the Purchaser establishes a reserve containing Cash in an amount sufficient to pay the full amount asserted as cure payment by the non-Debtor party to such contract or lease (or such smaller amount as may be fixed or estimated by the Bankruptcy Court). To the extent the Cure Dispute is resolved or determined unfavorably to the applicable Debtor, such Debtor may (with the consent of the Purchaser), reject the applicable executory contract or unexpired lease after such determination. Any Cure Disputes not consensually resolved prior to the Confirmation Hearing shall be heard at the Confirmation Hearing (or such other hearing as requested by the Debtors and determined appropriate by the Bankruptcy Court), including any disputed Cure Costs or objections to assumption and assignment, and/or objections to the adequacy of assurance of future performance being provided.

#### **6.10 Compensation and Benefit Programs.**

All employment and severance policies, and all compensation and benefit plans, policies, and programs of the Debtors applicable to their respective employees, retirees and non-employee directors including, without limitation, all savings plans, retirement plans, healthcare plans, disability plans, severance benefit plans, incentive plans, and life, accidental death and dismemberment insurance plans are treated as executory contracts under the Second Amended Plan and on the Effective Date will be listed on the Schedule of Rejected Contracts and will be rejected unless any of the foregoing is a Purchased Asset and the counterparty thereto receives an Assumption Notice, in which case the same shall be assumed and assigned to the Purchaser pursuant to the APA and in accordance with sections 365 and 1123 of the Bankruptcy Code.

#### **6.11 Post-Petition Contracts and Leases.**

Except to the extent set forth on the Schedule of Rejected Contracts and Leases, all contracts, agreements and leases that were entered into or assumed by the Debtors after the Petition Date (other than the APA and the Ancillary Agreements (as defined in the APA)) shall be deemed assigned by the Debtors to the Purchaser on the Effective Date, without a need for any consent or approval of, or notice to, the counterparty to any such contract, agreement or lease.

#### **6.12 Exculpation and Limitation of Liability.**

Under Section 12.7 of the Second Amended Plan, none of the Released Parties shall have or incur any liability to any holder of any Claim or Interest or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or agents acting in such capacity, or affiliates, or any of their successors or assigns, for any act or omission in connection with, or arising out of the Debtors' restructuring, including without limitation, the negotiation, implementation and execution of the Second Amended Plan, the Chapter 11 Cases, the APA, the Disclosure Statement, the solicitation of votes for and the pursuit of confirmation of the Second Amended Plan, the consummation of the Second Amended Plan, or the administration of the Second Amended Plan or the property to be distributed under the Second Amended Plan, including, without limitation, all documents ancillary thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto and all prepetition activities leading to the promulgation and confirmation of the Second Amended Plan except, gross negligence, or willful misconduct, each as determined by a Final Order of the Bankruptcy Court.

#### **6.13 Releases.**

##### **(a) Releases by the Debtors.**

*Section 12.6(a) of the Second Amended Plan provides that, for good and valuable consideration, the adequacy of which is confirmed by the Second Amended Plan, and except as otherwise provided in the Second Amended Plan or the Confirmation Order, as of the Effective Date, the Debtors, in their individual capacities and as debtors in possession, shall be deemed to forever release, waive and discharge all claims, obligations, suits, judgments, damages,*

*demands, debts, rights, Causes of Action and liabilities (other than the rights of the Debtors to enforce the Second Amended Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder, including the APA and all ancillary documents thereto) against the Released Parties, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the parties released pursuant to Section 12.6 of the Second Amended Plan, the Chapter 11 Cases, the Second Amended Plan or the Disclosure Statement, and that could have been asserted by or on behalf of the Debtors or their Estates, whether directly, indirectly, derivatively or in any representative or any other capacity; provided, however, that the foregoing is not intended to release any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities of or owed to the Debtors with respect to money borrowed from or owed to the Debtors by the current and former directors, officers and employees of the Debtors, as set forth in the Debtors' books and records.*

**(b) Releases by Holders of Claims and Interests.**

*Section 12.6(b) of the Second Amended Plan provides that, except as otherwise provided in the Second Amended Plan or the Confirmation Order, on the Effective Date: (i) each holder of a Claim or Interest that voted to accept the Second Amended Plan; and (ii) to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, all holders of Claims and Interests, in consideration for the obligations of the Debtors under the Second Amended Plan and the other contracts, instruments, releases, agreements or documents executed and delivered in connection with the Second Amended Plan, and each Person (other than the Debtors) that has held, holds or may hold a Claim or Interest, as applicable, will be deemed to have consented to the Second Amended Plan for all purposes and the restructuring embodied therein and deemed to forever release, waive and discharge all claims, demands, debts, rights, Causes of Action or liabilities (other than the right to enforce the obligations of any party under the Second Amended Plan and the contracts, instruments, releases, agreements and documents delivered under or in connection with the Second Amended Plan, including, without limitation, the APA) against the Released Parties, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Chapter 11 Cases, the Sale, the transactions contemplated by the Stalking Horse Agreement, the Second Amended Plan or the Disclosure Statement; provided, however, that the foregoing releases shall not apply to any holder of a Claim or Interest if such holder "opts out" of the releases provided in Section 12.6(b) of the Second Amended Plan in a timely submitted Ballot.*

**(c) Inapplicability of Releases.**

*Notwithstanding anything to the contrary contained in the Second Amended Plan: (i) except to the extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, the releases provided for in Section 12.6 of the*

*Second Amended Plan shall not release any non-Debtor entity from any liability arising under (x) the Internal Revenue Code or any state, city or municipal tax code, or (y) any criminal laws of the United States or any state, city or municipality; and (ii) the releases set forth in Section 12.6 of the Second Amended Plan shall not release any (x) Debtor's claims, right, or Causes of Action for money borrowed from or owed to a Debtor or its Subsidiary by any of its directors, officers or former employees as set forth in such Debtors' or Subsidiary's books and records, (y) claims against any Person to the extent such Person asserts a crossclaim, counterclaim and/or claim for setoff which seeks affirmative relief against a Debtor or any of its officers, directors, or representatives, and (z) Person's fraud, gross negligence or willful misconduct, each as determined by a Final Order of the Bankruptcy Court, for matters with respect to the Debtors and their Subsidiaries and/or affiliates.*

*Notwithstanding anything to the contrary contained in the Second Amended Plan, nothing in the Second Amended Plan: (i) discharges, releases, or precludes any (a) environmental liability that is not a Claim; (b) environmental claim of the United States that first arises on or after the Confirmation Date, or (c) other environmental claim or liability that is not otherwise dischargeable under the Bankruptcy Code; (ii) releases the Debtors from any environmental liability that a Debtor may have as an owner or operator of real property owned or operated by a Debtor on or after the Confirmation Date; (iii) releases or precludes any environmental liability to the United States on the part of any Persons other than the Debtors; or (iv) enjoins the United States from asserting or enforcing any liability described in this paragraph; provided, that the holder of a Claim in respect of any such environmental liability that is an Assumed Liability shall have no recourse against the Debtors or the Plan Administrator or any of their property with respect to such Assumed Liability.*

#### **6.14 Injunction.**

*Section 12.5 of the Second Amended Plan provides that except as otherwise provided in the Second Amended Plan or the Confirmation Order, as of the Confirmation Date, but subject to the occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against or Interests in the Debtors or the Estates are, with respect to any such Claims or Interests, permanently enjoined after the Confirmation Date from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons or any property of any such transferee or successor, (ii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtors or the Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons, or any property of any such transferee or successor, (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors or the Estates or any of their property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of*

*the Second Amended Plan to the full extent permitted by applicable law, and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Second Amended Plan; provided, however, that nothing contained therein shall preclude such Persons from exercising their rights, or obtaining benefits, pursuant to and consistent with the terms of the Second Amended Plan.*

By accepting distributions pursuant to the Second Amended Plan, each holder of an Allowed Claim or Allowed Interest will be deemed to have specifically consented to the Injunctions set forth in section 12.5 of the Second Amended Plan.

#### **6.15 *Injunction Related to Releases and Exculpation.***

Section 12.8 of the Second Amended Plan provides that the Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released pursuant to the Second Amended Plan, including but not limited to the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released in Sections 12.6 and 12.7 of the Second Amended Plan. Such injunction shall extend to successors of the Debtors and their respective properties and interests in property.

### **ARTICLE VII.**

#### **CONFIRMATION OF THE SECOND AMENDED PLAN**

#### **7.1 *Confirmation Hearing.***

Section 1128(a) of the Bankruptcy Code requires the bankruptcy court, after appropriate notice, to hold a hearing on confirmation of a chapter 11 plan. The Debtors shall request that the Bankruptcy Court establish the date and time of the Confirmation Hearing with respect to the Second Amended Plan. The hearing may be adjourned or continued from time to time by the Debtors or the Bankruptcy Court without further notice except for an announcement of the adjourned or continued date made at the Confirmation Hearing or any subsequent adjourned or continued Confirmation Hearing.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a chapter 11 plan. Any objection to confirmation of the Second Amended Plan must be in writing, must conform to the Bankruptcy Rules, must set forth the name of the objector, the nature and amount of Claims or Interests held or asserted by the objector against the particular Debtor or Debtors, the basis for the objection and the specific grounds therefor, and must be filed with the Bankruptcy Court, with a copy to chambers, together with proof of service thereof, and served upon: (i) (a) Willkie Farr & Gallagher LLP, counsel for the Debtors, 787 Seventh Avenue, New York, NY 10019, Attn: Paul V. Shalhoub, Esq. and Robin Spigel, Esq. and (b) Young Conaway Stargatt & Taylor, LLP, counsel for the Debtors, The Brandywine Building, 1000 West Street, 17<sup>th</sup> Floor, Wilmington, Delaware 19801, Attn: Robert S. Brady, Esq. and Matthew B. Lunn, Esq.; (ii) Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware

19801, Attn: Jane Leamy, Esq.; (iii) (a) Otterbourg, Steindler, Houston & Rosen P.C., 230 Park Avenue, New York, New York 10169, Attn: Jenette A. Barrow-Bosshart, Esq. and Jessica M. Ward, Esq. and (b) Pepper Hamilton LLP; Hercules Plaza, Suite 5100; 1313 Market Street; Wilmington, Delaware 19899 (Attn: David M. Fournier, Esq. and Henry J. Jaffe, Esq.), co-counsel for the Official Committee; and (iv) Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, New York 10038 (Attn.: Kristopher M. Hansen, Esq. and Jayme T. Goldstein, Esq.), counsel for the Ad Hoc Senior Noteholders Committee, the Stalking Horse Bidders and the DIP Lenders.

Bankruptcy Rule 9014 governs objections to confirmation of the Second Amended Plan. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

## **7.2 Confirmation.**

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied with respect to the Second Amended Plan.

### **(a) Confirmation Requirements.**

Confirmation of a chapter 11 plan under section 1129(a) of the Bankruptcy Code requires, among other things, that:

- the plan complies with the applicable provisions of the Bankruptcy Code;
- the proponent of the plan has complied with the applicable provisions of the Bankruptcy Code;
- the plan has been proposed in good faith and not by any means forbidden by law;
- any plan payment made or to be made by the proponent under the plan for services or for costs and expenses in, or in connection with, the chapter 11 case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable;
- the proponent has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in the plan with the debtor, or a successor to the debtor under the plan. The appointment to, or continuance in, such office by such individual must be consistent with the interests of creditors and equity security holders and with public policy and the proponent must have disclosed the identity of any insider that the debtor will employ or retain, and the nature of any compensation for such insider;

- with respect to each impaired class of claims or interests, either each holder of a claim or interest of such class has accepted the plan, or will receive or retain under the plan, on account of such claim or interest, property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtor were liquidated on such date under chapter 7 of the Bankruptcy Code;
- each class of claims or interests has either accepted the plan or is not impaired under the plan;
- except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that allowed administrative expenses and priority claims will be paid in full on the effective date (except that if a class of priority claims has voted to accept the plan, holders of such claims may receive deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amounts of such claims and that holders of priority tax claims may receive on account of such claims deferred cash payments, over a period not exceeding five (5) years after the date of assessment of such claims, of a value, as of the effective date, equal to the allowed amount of such claims);
- if a class of claims is impaired, at least one (1) impaired class of claims has accepted the plan, determined without including any acceptance of the plan by any insider holding a claim in such class; and
- confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

Subject to satisfying the standard for any potential “cramdown” of Classes that vote to reject the Second Amended Plan, the Debtors believe that:

- the Second Amended Plan satisfies all of the statutory requirements of chapter 11 of the Bankruptcy Code;
- the Debtors have complied or will have complied with all of the requirements of chapter 11 of the Bankruptcy Code; and
- the Second Amended Plan has been proposed in good faith.

Set forth below is a summary of the relevant statutory confirmation requirements.

**(1) Acceptance.**

Classes 3(b), 4(a), 5(a), 5(b), 6(a) and 6(b) are impaired under the Second Amended Plan and are entitled to vote to accept or reject the Second Amended Plan. Classes 1,



2, and 3(a) are unimpaired and, therefore, are conclusively presumed to have voted to accept the Second Amended Plan pursuant to section 1126(f) of the Bankruptcy Code. Classes 3(c), 4(b), and 5(c) are impaired, but because the holders of Interests in such Classes are proponents of the Second Amended Plan and, thus, have consented to the filing of the Second Amended Plan and approval of the treatment afforded to such holders thereunder, such Classes are deemed to have accepted the Second Amended Plan and are not entitled to vote to accept or reject the Second Amended Plan.

To the extent any Classes vote to reject the Second Amended Plan, the Debtors will request confirmation of the Second Amended Plan under section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to alter, amend, modify, revoke or withdraw the Second Amended Plan, any exhibit, or schedules thereto or any Plan Document in order to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary, subject to the terms of the Second Amended Plan. The Debtors believe that the Second Amended Plan will satisfy the “cramdown” requirements of section 1129(b) of the Bankruptcy Code with respect to any rejecting Classes of Claims or Interests.

The Debtors also will seek confirmation of the Second Amended Plan over the objection of any individual holders of Claims who are members of an accepting Class. However, there can be no assurance that the Bankruptcy Court will determine that the Second Amended Plan meets the requirements of section 1129(b) of the Bankruptcy Code.

## **(2) Unfair Discrimination and Fair and Equitable Test.**

To obtain nonconsensual confirmation of the Second Amended Plan, it must be demonstrated to the Bankruptcy Court that the Second Amended Plan “does not discriminate unfairly” and is “fair and equitable” with respect to each impaired, non-accepting Class. The Bankruptcy Code provides a non-exclusive definition of the phrase “fair and equitable” for, respectively, secured creditors, unsecured creditors and holders of equity interests.

A chapter 11 plan does not “discriminate unfairly” with respect to a non-accepting class if the value of the cash and/or securities to be distributed to the non-accepting class is equal to, or otherwise fair when compared to, the value of the distributions to other classes whose legal rights are the same as those of the non-accepting class.

## **(3) Feasibility.**

The Bankruptcy Code permits a chapter 11 plan to be confirmed only if confirmation is not likely to be followed by liquidation or the need for further financial reorganization of the debtors or any successor to the debtors, unless such liquidation or reorganization is proposed in such plan. For purposes of determining whether the Second Amended Plan meets this requirement, the Debtors have analyzed their ability to meet their obligations under the Second Amended Plan. Under the terms of the Second Amended Plan, all Allowed Claims and Allowed Interests are being paid in whole or in part in Cash. The Purchase Price shall be the only form of consideration available for distribution (see table at Article II, “Summary of Plan Classification and Treatment of Claims and Interests” above) and the Debtors

expect that proceeds of the Sale will be sufficient to fund all distributions as and to the extent set forth in the Second Amended Plan.

(b) **Best Interests Test.**

The “best interests” test requires that the Bankruptcy Court find either:

- that all members of each impaired class have accepted the chapter 11 plan; or
- that each holder of an allowed claim or interest of each impaired class of claims or interests will under the plan receive or retain on account of such claim or interest, property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of the Bankruptcy Code on such date.

To determine what holders of Claims and Interests in each impaired Class would receive if the Debtors were liquidated under chapter 7, the Bankruptcy Court must determine the dollar amount that would be generated from the liquidation of the Debtors’ assets and properties in the context of liquidation under chapter 7 of the Bankruptcy Code. The Cash amount that would be available for satisfaction of Claims and Interests would consist of the proceeds resulting from the disposition of the assets and properties of the Debtors, augmented by the Cash held by the Debtors at the time of the commencement of the liquidation case. Such Cash amount would be: (i) first, reduced by the amount of the Allowed Prepetition Secured Lender Claims and Other Secured Claims, (ii) second, reduced by the costs and expenses of liquidation and such additional administrative claims that might result from the termination of the Debtors’ business and the use of chapter 7 for the purposes of liquidation, and (iii) third, reduced by the Debtors’ costs of liquidation under chapter 7, including the fees payable to a trustee in bankruptcy, as well as those fees that might be payable to attorneys and other professionals that such a trustee might engage. Any remaining net cash would be allocated to creditors and stakeholders in strict order of priority of claims contained in section 726 of the Bankruptcy Code. In addition, claims would arise by reason of the breach or rejection of obligations incurred and leases and executory contracts (including vendor and customer contracts) assumed or entered into by the Debtors prior to the filing of the chapter 7 cases. Certain claims that would otherwise be paid over the course of many years would be accelerated, such as termination liability with respect to the Debtors’ obligations relating to other post-employment benefits.

To determine if the Second Amended Plan is in the best interests of each impaired class, the present value of the distributions from the proceeds of a liquidation of the Debtors’ assets and properties, after subtracting the amounts attributable to the foregoing claims, must be compared with the value of the property offered to such Classes of Claims under the Second Amended Plan.

After considering the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors in the Chapter 11 Cases, the Debtors have determined that confirmation of the Second Amended Plan will provide each holder of an Allowed Claim with a recovery that is not less than such holder would receive pursuant to the liquidation of the Debtors under chapter 7.

Moreover, the Debtors believe that the value of any distributions to each Class of Allowed Claims and Allowed Interests in a chapter 7 case would be less than the value of distributions under the Second Amended Plan and any distribution in a chapter 7 case would not occur for a substantial period of time. It is likely that distribution of the proceeds of the liquidation could be delayed for up to eighteen months after the completion of such liquidation in order to resolve claims and prepare for distributions. In the likely event litigation was necessary to resolve claims asserted in the chapter 7 case, the delay could be prolonged.

Jefferies, with the assistance of the Debtors, prepared a liquidation analysis which is annexed hereto as Exhibit 2 (the “**Liquidation Analysis**”). The information set forth in Exhibit 2 provides: (a) a summary of the liquidation values of the Debtors’ assets, assuming a chapter 7 liquidation in which a trustee appointed by the Bankruptcy Court would liquidate the assets of the Debtors’ estates, and (b) the expected recoveries of the Debtors’ creditors and equity interest holders under the Second Amended Plan. As reflected in Exhibit 2, the following Classes of Claims and Interests would have a zero percent (0%) recovery on their Claims in a liquidation scenario: Classes 1, 2, 3(a), (b) and (c), 4(a), and (b), 5(a), 5(b) and 5(c) and 6(a) and (b). Holders of Interests in RGCH, RathGibson, and Greenville will not receive anything on account of their interests pursuant to the Second Amended Plan.

Underlying the Liquidation Analysis are a number of estimates and assumptions that, although developed and considered reasonable by the Debtors’ management, are inherently subject to significant economic and competitive uncertainties and contingencies beyond the control of the Debtors and their management. The Liquidation Analysis also is based on assumptions with regard to liquidation decisions that are subject to change and significant economic and competitive uncertainties and contingencies beyond the control of the Debtors and their management. Inevitably, some assumptions will not materialize and unanticipated events and circumstances may affect the results of a liquidation of the Debtors. Accordingly, the values reflected might not be realized if the Debtors were, in fact, to be liquidated. The chapter 7 liquidation period is assumed to last nine months following the appointment of a chapter 7 trustee, allowing for, among other things, the discontinuation and wind-down of operations, the sale of the operations, the sale of assets and the collection of receivables. All holders of Claims that are entitled to vote to accept or reject the Second Amended Plan are urged to examine carefully all of the assumptions on which the Liquidation Analysis is based in connection with their evaluation of the Second Amended Plan.

### **7.3 Classification of Claims and Interests.**

The Debtors believe that the Second Amended Plan meets the classification requirements of the Bankruptcy Code, which require that a chapter 11 plan place each claim and interest into a class with other claims or interests that are “substantially similar.”

### **7.4 Consummation.**

The Second Amended Plan will be consummated on the Effective Date. The Effective Date will occur on the first Business Day on which the conditions precedent to the effectiveness of the Second Amended Plan, as set forth in the Second Amended Plan, have been satisfied or waived pursuant to the Second Amended Plan.

The Second Amended Plan is to be implemented pursuant to its terms, consistent with the provisions of the Bankruptcy Code.

#### **7.5 *The Role of the Creditors' Committee***

The Creditors' Committee shall be automatically dissolved on the later of: (i) the Effective Date; and (ii) the conclusion of any appeals with respect to the Confirmation Order (but such functions shall relate solely to services performed related to such appeal), and the Creditors' Committee shall be deemed dissolved as of such date except with respect to the review and prosecution of Fee Claims and any objections thereto. Following the Effective Date, the attorneys and financial advisors to the Creditors' Committee shall be entitled to assert any reasonable claims for compensation for services rendered or reimbursement for expenses incurred after the Effective Date in connection with the pursuit of their own Fee Claims or the representation of the Creditors' Committee in connection with the review of and the right to be heard in connection with all Fee Claims.

#### **7.6 *Post-Confirmation Jurisdiction of the Bankruptcy Court***

Pursuant to sections 105(c) and 1142 of the Bankruptcy Code and notwithstanding entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising in, arising under, or related to the Chapter 11 Cases for, among other things, the following purposes:

- (a) To hear and determine applications for the assumption or rejection of executory contracts or unexpired leases and the Cure Disputes resulting therefrom;
- (b) To determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;
- (c) To ensure that distributions to holders of Allowed Claims or Allowed Interests are accomplished as provided in the Second Amended Plan;
- (d) To consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim, including any Administrative Expense Claim;
- (e) To consider Interests or the allowance, compromise or distributions on account of any Interest;
- (f) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;
- (g) To issue and enforce injunctions, enter and implement other orders, and

take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of the Second Amended Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

- (h) To hear and determine any application to modify the Second Amended Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Second Amended Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;
- (i) To hear and determine all Fee Claims;
- (j) To resolve disputes concerning any reserves with respect to Disputed Claims or the administration thereof;
- (k) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Second Amended Plan, the Confirmation Order, the APA, any transactions or payments contemplated thereby, or any agreement, instrument, or other document governing or relating to any of the foregoing;
- (l) To take any action and issue such orders, including any such action or orders as may be necessary after occurrence of the Effective Date and/or consummation of the Second Amended Plan, as may be necessary to construe, enforce, implement, execute, and consummate the Second Amended Plan, including any release or injunction provisions set forth therein, or to maintain the integrity of the Second Amended Plan following consummation;
- (m) To determine such other matters and for such other purposes as may be provided in the Confirmation Order;
- (n) To hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
- (o) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;
- (p) To resolve any disputes concerning whether a Person had sufficient notice of the Chapter 11 Cases, the Disclosure Statement Hearing, the Confirmation Hearing, any applicable Bar Date, or the deadline for responding or objecting to a Cure Cost, for the purpose of determining whether a Claim or Interest is discharged hereunder, or for any other purpose;

- (q) To recover any property of the Estates that are not Purchased Assets, wherever located;
- (r) To determine any other matter not inconsistent with the Bankruptcy Code; and
- (s) To enter a final decree closing each of the Chapter 11 Cases.

## ARTICLE VIII.

### **ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE SECOND AMENDED PLAN**

If the Second Amended Plan is not consummated, the Debtors' capital structure will remain over-leveraged and the Debtors will remain unable to service their debt obligations. Accordingly, if the Second Amended Plan is not confirmed and consummated, the alternatives include:

#### **8.1 *Liquidation Under Chapter 7 of the Bankruptcy Code.***

The Debtors could be liquidated under chapter 7 of the Bankruptcy Code. A discussion of the effect a chapter 7 liquidation would have on the recoveries of the holders of Claims is set forth in Article VII of this Disclosure Statement. The Debtors believe that liquidation would result in lower aggregate distributions being made to creditors and interest holders than those provided for in the Second Amended Plan, which is demonstrated by the Liquidation Analysis set forth in Article VII and attached as Exhibit 2 of this Disclosure Statement.

#### **8.2 *Alternative Plan(s) of Reorganization.***

Assuming the Debtors had sufficient liquidity to operate, the Debtors believe that failure to confirm the Second Amended Plan would lead to expensive and protracted Chapter 11 Cases. However, the Debtors do not believe that, in such event, they will be able to procure additional financing and believe liquidation would likely result.

In formulating and developing the Second Amended Plan, the Debtors have explored numerous other alternatives and engaged in an extensive negotiating process with the Stalking Horse Bidder, the Ad Hoc Senior Noteholders Committee, the Ad Hoc RGCH PIK Noteholders Committee and the Creditors' Committee. The Debtors believe that the Second Amended Plan fairly adjusts the rights of various Classes of Claims and Interests, and also provides superior recoveries to Classes 3(b), 4(a), 5(a), 5(b), 6(a) and 6(b) over any alternative capable of rational consideration (such as a chapter 7 liquidation), thus enabling stakeholders to maximize their returns.

THE DEBTORS BELIEVE THAT CONFIRMATION OF THE SECOND  
AMENDED PLAN IS PREFERABLE TO ANY ALTERNATIVE BECAUSE THE SECOND  
AMENDED PLAN MAXIMIZES THE AMOUNT OF DISTRIBUTIONS TO ALL HOLDERS

OF CLAIMS AND INTERESTS AND ANY ALTERNATIVE TO CONFIRMATION OF THE SECOND AMENDED PLAN WILL RESULT IN SUBSTANTIAL DELAYS IN THE DISTRIBUTION OF ANY RECOVERIES. THEREFORE, THE DEBTORS RECOMMEND THAT ALL HOLDERS OF IMPAIRED CLAIMS AND IMPAIRED INTERESTS ENTITLED TO VOTE ON THE SECOND AMENDED PLAN VOTE TO ACCEPT THE SECOND AMENDED PLAN.

### **8.3 Dismissal of the Debtors' Chapter 11 Cases.**

Dismissal of the Debtors' Chapter 11 Cases would have the effect of restoring (or attempting to restore) all parties to the *status quo ante*. Upon dismissal of the Debtors' Chapter 11 Cases, the Debtors would lose the protection of the Bankruptcy Code, thereby requiring, at the very least, an extensive and time consuming process of negotiations with the creditors of the Debtors, and possibly resulting in costly and protracted litigation in various jurisdictions. Moreover, holders of Secured Claims may be permitted to foreclose upon the assets that are subject to their Liens, which is likely all of the Debtors' assets, including all of their Cash. Dismissal may also permit certain unpaid unsecured creditors to obtain and enforce judgments against the Debtors. The Debtors believe that these actions would seriously undermine their ability to obtain financing and could lead ultimately to the liquidation of the Debtors under chapter 7 of the Bankruptcy Code. Therefore, the Debtors believe that dismissal of the Debtors' Chapter 11 Cases is not a viable alternative to the Second Amended Plan.

## **ARTICLE IX.**

### **SUMMARY OF VOTING PROCEDURES**

This Disclosure Statement, including all Exhibits hereto and the related materials included herewith, is being furnished to the holders of Claims in Classes 3(b), 4(a), 5(a), 5(b) and 6(a), and Interests in Class 6(b), which are the only Classes entitled to vote on the Second Amended Plan.

All votes to accept or reject the Second Amended Plan must be cast by using the Ballot enclosed with this Disclosure Statement. No other votes will be counted. Consistent with the provisions of Bankruptcy Rule 3018, the Debtors have fixed [April 9], 2010 at 5:00 p.m. (prevailing Eastern Time) as the Voting Record Date. Ballots must be RECEIVED by the Voting Agent no later than 4:00 p.m. (prevailing Eastern Time) on [May 11], 2010, unless the Debtors, at any time, in their sole discretion, extend such date by oral or written notice to the Voting Agent, in which event the period during which Ballots will be accepted will terminate at 4:00 p.m. (prevailing Eastern Time) on such extended date. See Section 1.4 "Voting; Holders of Claims Entitled to Vote" above for additional disclosures regarding voting, including voting by Intermediary.

Ballots previously delivered may be withdrawn or revoked at any time prior to the Voting Deadline by the beneficial owner on the Voting Record Date who completed the original Ballot. Only the person or nominee who submits a Ballot can withdraw or revoke that Ballot. A Ballot may be revoked or withdrawn either by submitting a superseding Ballot or by providing written notice to the Voting Agent.

Acceptances or rejections may be withdrawn or revoked prior to the Voting Deadline by delivering a written notice of withdrawal or revocation to the Voting Agent. To be effective, notice of revocation or withdrawal must: (a) be received on or before the Voting Deadline by the Voting Agent at its address specified in Section 1.4 above; (b) specify the name of the holder of the Claim or Interest whose vote on the Second Amended Plan is being withdrawn or revoked; (c) contain the description of the Claim or Interest as to which a vote on the Second Amended Plan is withdrawn or revoked; and (d) be signed by the holder of the Claim or Interest who executed the Ballot reflecting the vote being withdrawn or revoked, in the same manner as the original signature on the Ballot. The foregoing procedures should also be followed with respect to a person entitled to vote on the Second Amended Plan who wishes to change (rather than revoke or withdraw) its vote.

## ARTICLE X.

### DESCRIPTION AND HISTORY OF CHAPTER 11 CASES

#### **10.1 General Case Background.**

On July 13, 2009, each of the Debtors and their direct and indirect parents, as applicable, filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On July 14, 2009, the Bankruptcy Court entered an order (Docket No. 44) authorizing the joint administration of the Chapter 11 Cases, for procedural purposes only, under Case No. 09-12452. The Honorable Christopher S. Sontchi is presiding over the Chapter 11 Cases. The Debtors continue to operate their businesses and manage their properties as debtors and debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. As of the date hereof, no request has been made for the appointment of a trustee or examiner in these cases.

The following is a brief description of certain significant events that have occurred during the pendency of the Chapter 11 Cases.

#### **10.2 Retention of Professionals.**

To assist them in carrying out their duties as debtors in possession, and to otherwise represent their interests in the Chapter 11 Cases, the Debtors filed with the Bankruptcy Court applications seeking entry of orders authorizing the Debtors to retain: (a) Willkie Farr & Gallagher LLP (Docket No. 28) and Young Conaway Stargatt & Taylor, LLP (Docket No. 80) as their co-counsel; (b) Kelley Drye & Warren LLP as their special corporate counsel (Docket No. 67); and (c) Mesirow Financial Consulting, LLC as their financial advisors (Docket No. 68). On August 11, 2009, the Bankruptcy Court entered orders (Docket Nos. 150, 154, 152, and 151, respectively) approving the applications.

On the Petition Date, the Debtors filed with the Bankruptcy Court an application seeking entry of an order authorizing the Debtors to retain Jefferies & Company, Inc. ("**Jefferies**") as their financial advisor and investment banker (Docket No. 29). On August 10, 2009, the Debtors filed with the Bankruptcy Court a motion seeking entry of an order approving an addendum to the Debtors' engagement letter with Jefferies (Docket No. 145). On August 31,



2009, the Bankruptcy Court entered orders (Docket Nos. 244 and 243, respectively) approving the retention application and motion to approve the addendum.

Also on the Petition Date, the Debtors filed with the Bankruptcy Court an application seeking entry of an order, pursuant to 28 U.S.C. § 156(c), authorizing the Debtors to retain Garden City as the Debtors' claims, noticing and balloting agent (Docket No. 5). On July 14, 2009, the Bankruptcy Court entered an order (Docket No. 56) approving the application.

Additionally, the Debtors filed with the Bankruptcy Court a motion seeking authority, pursuant to section 327(e) of the Bankruptcy Code, to employ certain additional professionals, utilized in the ordinary course, to assist the Debtors in their day-to-day business operations (Docket No. 30). On August 11, 2009, the Bankruptcy Court entered an order (Docket No. 147) approving the motion.

### **10.3 Employment Obligations.**

#### **(a) Prepetition Employee Compensation.**

The Debtors believe they have a valuable asset in their workforce, and that the efforts of the Debtors' employees are critical to a successful reorganization. On the Petition Date, the Debtors filed with the Bankruptcy Court a motion (the "**Employee Wage Motion**") for an order authorizing the Debtors to pay claims relating to, among other items, wages, salaries, compensation, withholding taxes, payroll taxes, vacation, reimbursable expenses, and other employee compensation (Docket No. 8). On July 14, 2009, the Bankruptcy Court entered an order (Docket No. 54) approving the motion, except with respect to the incentive bonus plan obligations discussed in section 10.3(b) hereof.

#### **(b) Incentive Bonus Plans.**

The Debtors maintain incentive bonus plans for their corporate executives, operational managers, local business unit managers, and international employees. Pursuant to the incentive bonus plans, participating employees receive bonuses based on various metrics, including EBITDA and working capital/net debt targets. By the Employee Wage Motion, the Debtors sought authorization to pay certain outstanding obligations in respect of the incentive bonus plans for middle managers and certain international employees for fiscal year 2008-2009. The Debtors did not seek to pay bonuses to any executives or insiders. On August 31, 2009, the Bankruptcy Court entered an order (Docket No. 241) authorizing the Debtors to satisfy their outstanding obligations to middle managers and international employees under the incentive bonus plans.

#### **(c) Retiree Benefits.**

On and after the Effective Date, pursuant to section 1129(a)(13) of the Bankruptcy Code, payments in respect of retiree benefits (within the meaning of, and subject to the limitations of, section 1114 of the Bankruptcy Code), if any, at the level established in accordance with section 1114 of the Bankruptcy Code, at any time prior to the Confirmation Date, shall be continued for the duration of the period for which the Debtors had obligated

themselves to provide such benefits. Nothing herein or in the Second Amended Plan shall: (i) restrict the Debtors' right to modify the terms and conditions of the retiree benefits, if any, as otherwise permitted pursuant to the terms of the applicable plans, non-bankruptcy law, or section 1114(m) of the Bankruptcy Code; or (ii) be construed as an admission that any such retiree benefits are owed by the Debtors. The Debtors currently are unaware of any obligations owing in respect of retiree benefits.

#### **10.4 *Continuing Supplier and Customer Relations.***

The Debtors believe that maintaining good relationships with their vendors, suppliers and customers is necessary to the continuity of the Debtors' business operations during the Chapter 11 Cases. On the Petition Date, the Debtors filed with the Bankruptcy Court a motion seeking entry of an order authorizing the Debtors to pay, in the ordinary course of business, prepetition claims of certain priority vendors and certain critical vendors of goods and services, including foreign critical vendors (Docket No. 13). On July 14, 2009, the Bankruptcy Court entered an order (Docket No. 52) approving the motion.

In addition, on the Petition Date, the Debtors filed with the Bankruptcy Court a motion seeking entry of an order authorizing the Debtors to continue certain prepetition customer programs, and satisfy, in the ordinary course of business, certain prepetition claims arising from such programs (Docket No. 12). On July 14, 2009, the Bankruptcy Court entered an order (Docket No. 50) approving the motion.

#### **10.5 *Stabilization of Debtors' Business Operations.***

##### **(a) *Cash Management.***

The Debtors sought an order authorizing it to continue the management of their cash receipts and disbursements substantially in the manner in which they were handled immediately before the Petition Date, to continue to use of all of their existing bank accounts and certain business forms that are maintained by the Debtors in the operation of their businesses and to continue their investment practices in the ordinary course of its business. The Debtors believe it would be disruptive to their operations if they were forced to change significantly their cash management system upon the commencement of the Chapter 11 Cases. Accordingly, on the Petition Date, the Debtors filed with the Bankruptcy Court a motion seeking entry of an order authorizing the Debtors to maintain their current cash management system (Docket No. 6). On July 14, 2009, the Bankruptcy Court entered an order (Docket No. 45) approving the motion.

##### **(b) *Postpetition Financing and Use of Cash Collateral.***

The Debtors could not meet their ongoing postpetition obligations unless they were authorized to use Cash claimed as part of their collateral by the Lenders and draw on the DIP Facility. On the Petition Date, certain of the Debtors filed with the Bankruptcy Court a motion seeking interim and final orders authorizing such Debtors to obtain secured postpetition financing consisting of a multiple draw secured term loan facility in an aggregate principal

amount not to exceed \$80 million,<sup>7</sup> grant senior liens and superpriority administrative expense status, use cash collateral of the Prepetition Secured Lender and provide “adequate protection” to the Prepetition Secured Lender (the “**DIP Motion**”) (Docket No. 15). On July 14, 2009, the Bankruptcy Court entered an order (Docket No. 48) approving the DIP Motion on an interim basis and, on August 11, 2009, entered an order (Docket No. 159), approving the DIP Motion on a final basis. Among other things, the Debtors used proceeds from the DIP Facility to repay loans outstanding under the Prepetition Secured Credit Agreement as of the Petition Date. As part of the Order approving the DIP Motion on a final basis, the Debtors were authorized, subject to the challenge period specified therein for the Creditors’ Committee, to pay, and subsequently paid, the prepetition secured lenders in full in cash all Prepetition Secured Obligations (as defined in the final DIP Order).

(c) **Certain Insurance Matters.**

In the ordinary course in connection with the operation of their businesses, the Debtors maintain various workers’ compensation and insurance policies which cover workers’ compensation and employer liability, general liability, automobile liability, liability arising out of international operations, property damage, cargo losses, directors’ and officers’ liability, and kidnap and ransom damage. On the Petition Date, the Debtors filed a motion (Docket No. 10) seeking authority to continue honoring all of their obligations under their insurance policies, regardless of when such obligations arose. On July 14, 2009, the Bankruptcy Court entered an order (Docket No. 47) approving the motion.

**10.6 Utilities.**

On the Petition Date, the Debtors filed with the Bankruptcy Court a motion for interim and final orders: (a) prohibiting utilities from altering, refusing or discontinuing services; (b) deeming utility companies adequately assured of future performance; and (c) establishing procedures for determining adequate assurance of payment (Docket No. 7). On July 14, 2009 and August 11, 2009, the Bankruptcy Court entered orders approving the motion on an interim and final bases, respectively (Docket Nos. 51 and 153).

**10.7 Appointment of a Creditors’ Committee.**

Pursuant to section 1102(a)(1) of the Bankruptcy Code, on July 22, 2009, the U.S. Trustee appointed the Creditors’ Committee. The current members of the Creditors’ Committee are set forth below:

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<sup>7</sup> On July 16, 2009, the Debtors entered into that certain Secured Super-priority Debtor-in-Possession Multiple Draw Term Loan Agreement, by and among RathGibson, as Borrower, Greenville and RGCH, as guarantors, Wilmington Trust Company FSB as Administrative Agent and the DIP Lenders (as the same may be amended, restated, supplemented or otherwise modified from time to time pursuant to the terms thereof, the “**DIP Facility**”), which provided the Debtors with a facility in an aggregate amount of \$80,000,000.

The Bank of New York Mellon  
101 Barclay St., 8 West  
New York, NY 10286  
Attn: John Giuliano

David Pudelsky  
469 South Horizon Way  
Neshanic Station, NJ 08853

ECO Master Fund Ltd.  
c/o ECO Management LP  
320 Park Ave., 9th Floor  
New York, NY 10022  
Attn: Steven Friedman

On August 5, 2009 and August 20, 2009, the Creditors' Committee filed with the Bankruptcy Court applications seeking entry of an order authorizing the Creditors' Committee to retain Otterbourg, Steindler, Houston & Rosen, P.C. as its counsel (Docket No. 129) and Huron Consulting Financial Services LLC as its financial advisors (Docket No. 200), respectively. On September 11, 2009, the Bankruptcy Court approved such retentions (Docket Nos. 278 & 280).

#### **10.8 Section 341 Meeting**

On August 20, 2009, the U.S. Trustee convened a meeting of creditors (the "**341 Meeting**") pursuant to section 341(a) of the Bankruptcy Code. Mr. Jon Smith, Chief Financial Officer of the Debtors, attended the 341 Meeting on behalf of the Debtors. The 341 Meeting was closed on August 20, 2009.

#### **10.9 Schedules, Statements and Bar Date.**

##### **(a) Schedules and Statements.**

On July 29, 2009, each Debtor filed with the Bankruptcy Court its Schedules of Assets and Liabilities ("**Schedules**") and Statement of Financial Affairs ("**SoFA**"). On August 26, 2009, RathGibson and Greenville filed certain amended Schedules. On October 2, 2009, RathGibson filed certain further amended Schedules. The Schedules and SoFAs are available electronically free of charge at <http://www.rathrestructuring.com>.

##### **(b) Bar Date.**

On the Petition Date, the Debtors filed with the Bankruptcy Court a motion seeking an order establishing the Bar Dates for filing proof of certain claims against the Debtors that arose on or prior to the Petition Date, and approving the form and manner of notice of each Bar Date (Docket No. 14). On July 14, 2009, the Bankruptcy Court entered an order (Docket No. 47) (the "**Bar Date Order**") approving the motion and fixing the date that was 35 days from the date that each of the Debtors filed their Schedules and SoFAs with the Bankruptcy Court as the Bar Date for all creditors other than governmental units (the "**General Bar Date**"), and

January 11, 2010 as the Bar Date for governmental units. As the Debtors filed their Schedules and SoFAs on July 29, 2009, the General Bar Date was set as September 2, 2009. Pursuant to the Bar Date Order, any creditor affected by an amendment to the Schedules and SoFAs has 20 days from the date of such amendment to file a proof of claim. Additionally, any counterparty to an executory contract or unexpired lease with the Debtors that is rejected by the Debtors has until 30 days after entry of an order approving such rejection to file a proof of claim for damages arising from such rejection.

In accordance with the Bar Date Order, on August 10, 2009, a notice regarding the Bar Dates (the “**Bar Date Notice**”) was published in The New York Times. In addition, on August 3, 2009, a proof of claim form and notice of the Bar Dates were mailed to all known entities holding potential prepetition claims against the Debtors.

#### **10.10 Claims Objections**

The Debtors have commenced the process of reconciling the proofs of claim filed with their books and records in order to identify claims to which they should object.

In connection therewith, on October 7, 2009, the Debtors filed an omnibus objection (Docket No. 324) (the “**First Omnibus Objection**”) to the allowance of certain claims that: (i) duplicated other proofs of claim filed in the Debtors’ cases; (ii) were filed against the incorrect Debtor; or (iii) were satisfied by the Debtors after the Petition Date. On November 4, 2009, the Bankruptcy Court entered an order (Docket No. 380) sustaining the First Omnibus Objection. Also on October 7, 2009, the Debtors filed an omnibus objection (Docket No. 325) (the “**Second Omnibus Objection**”) to certain claims: (i) with respect to which the Debtors believed they were not liable; (ii) which, according to the Debtors’ books and records, were asserted an incorrect amount; or (iii) which the Debtors determined should be reclassified to a different priority. On November 4, 2009, the Bankruptcy Court entered an order (Docket No. 378) sustaining the Second Omnibus Objection with respect to all claims subject thereto except for one claim, with respect to which the Second Omnibus Objection was adjourned.

On December 29, 2009, the Debtors filed an omnibus objection (Docket No. 470) (the “**Third Omnibus Objection**”) to the allowance of certain claims that duplicated or were amended by other claims filed in the Chapter 11 Cases. On January 26, 2010, the Bankruptcy Court entered an order (Docket No. 503) sustaining the Third Omnibus Objection in its entirety. Also on December 29, 2009, the Debtors filed an omnibus objection (Docket No. 471) (the “**Fourth Omnibus Objection**”) to certain claims: (i) with respect to which the Debtors believed they were not liable; or (ii) which, according to the Debtors’ books and records, were asserted an incorrect amount. One claimant partially withdrew one of the claims subject to the Fourth Omnibus Objection and the Debtors withdrew its objection to one claim included in the Fourth Omnibus Objection. On January 28, 2010, the Bankruptcy Court entered an order (Docket No. 509]) sustaining the Fourth Omnibus Objection in its entirety, subject to the withdrawals described in the immediately preceding sentence.

As of the date hereof, the Debtors believe that they filed the majority of their objections to filed Claims. In their efforts to maximize the value of the Estates, consistent with their fiduciary duties, the Debtors will continue to diligently pursue the claims reconciliation

process and object to the remaining Claims, as appropriate, including after the Effective Date, in accordance with Section 9.1 of the Second Amended Plan.

### **10.11 *Preferences and Fraudulent Conveyances***

Under the Bankruptcy Code, a debtor may seek to recover, through adversary proceedings in the bankruptcy court, certain transfers of the debtor's property, including payments of cash, made while the debtor was insolvent during the 90 days immediately before the commencement of the bankruptcy case (or, in the case of a transfer to or on behalf of an "insider," one year before the commencement of the bankruptcy case) in respect of antecedent debts to the extent the transferee received more than it would have received on account of such preexisting debt had the debtor been liquidated under chapter 7 of the Bankruptcy Code. Such transfers include cash payments, pledges of security interests or other transfers of an interest in property. In order to be preferential, such payments must have been made while the debtor was insolvent; debtors are rebuttably presumed to have been insolvent during the 90-day preference period. The Bankruptcy Code's preference statute can be very broad in its application because it allows the debtor to recover payments regardless of whether there was any impropriety in such payments.

However, there are certain defenses to such claims. For example, transfers made in the ordinary course of a debtor's and the transferee's business or transfers made in accordance with ordinary business terms are not recoverable. Furthermore, if the transferee extended credit contemporaneously with or subsequent to the transfer, and before the commencement of the bankruptcy case, for which the transferee was not repaid, such extension constitutes an offset against an otherwise recoverable transfer of property. If a transfer is recovered by a debtor, the transferee has a general unsecured claim against the debtor to the extent of the recovery.

Pursuant to Section 14.13 of the Second Amended Plan, except for any pending action as of the Effective Date, the Debtors intend to release and waive the right to prosecute any avoidance or recovery actions under sections 544, 547, 548, 549 and 550 of the Bankruptcy Code. As of the date hereof, the Debtors do not anticipate prosecuting any avoidance or recovery actions against any ordinary course of business trade vendors or service providers because, among other things, holders of Allowed General Unsecured Claims are being paid in full under the Second Amended Plan.

### **10.12 *Deadline Extensions***

#### **(a) Extension of Deadline for Removal of Prepetition Non-Bankruptcy Actions**

Pursuant to Bankruptcy Rule 9006(b)(1), the Debtors' original deadline to remove prepetition non-bankruptcy actions to federal court (the "**Removal Deadline**") was October 13, 2009. On November 4, 2009, the Bankruptcy Court entered an order (Docket No. 376) extending the Removal Deadline. On January 20, 2010, the Bankruptcy Court entered an order (Docket No. 494) further extending the Removal Deadline until the later of: (i) April 12, 2010; or (ii) 30 days after termination of the automatic stay with respect to the particular prepetition non-bankruptcy action to be removed.

(b) **Extension of Deadline to Assume or Reject Unexpired Leases of Nonresidential Real Property.**

As of the Petition Date, certain of the Debtors were party to unexpired leases of nonresidential real property. Section 365(d)(4) of the Bankruptcy Code provides that any unexpired lease of nonresidential real property under which the debtor is a tenant shall be deemed rejected on the date that is 120 days after the petition date. Such deadline (the "**365(d)(4) Deadline**") may be extended by the Bankruptcy Court for 90 days, once, for cause. On November 4, 2009, the Bankruptcy Court entered an order (Docket No. 375) extending the Debtors' time to assume or reject all of their nonresidential real property leases by 90 days, through and including February 8, 2010.

In accordance with the Bankruptcy Code, subsequent extensions of the 365(d)(4) Deadline with respect to any unexpired lease may only be obtained with the consent of the applicable landlord. In January 2010, the Debtors obtained consensual extensions of the 365(d)(4) Deadline with respect to each of their leases, which extensions were memorialized in stipulations approved by orders of the Bankruptcy Court (Docket Nos. 485, 486, 491, 498, 518, 524 and 527). Such extensions were for periods ranging from 2.5 months to 6 months.

(c) **Extension of Debtors' Exclusive Periods**

Pursuant to section 1121 of the Bankruptcy Code, a chapter 11 debtor has the exclusive right to file and solicit acceptance of a chapter 11 plan for an initial period of 120 days from the date on which the debtor filed for voluntary relief. If the chapter 11 debtor files a chapter 11 plan within this exclusive period, then it has the exclusive right for 180 days from the filing date to solicit acceptances to such plan. During these exclusive periods, no other party in interest may file a competing chapter 11 plan. The Bankruptcy Court may extend these periods upon request of a party in interest and "for cause."

The Debtors' initial exclusive filing period would have expired on November 10, 2009, and the Debtors' initial exclusive solicitation period would have expired on January 11, 2010. On November 9, 2009, the Debtors filed a motion (Docket No. 393) seeking to extend their exclusivity periods for 120 days and, on December 9, 2009, the Bankruptcy Court entered an order (Docket No. 442) granting the Debtors an extension of their exclusive filing period through February 23, 2010 and their exclusive solicitation period through April 28, 2010.

**10.13 Events Leading to Formulation of Second Amended Plan.**

On the Petition Date, RathGibson and Greenville filed the Joint Chapter 11 Plan for RathGibson, Inc. and Greenville Tube Company [Docket No. 32] (as amended on August 31, 2009 [Docket No. 260], the "**First Amended Plan**") and related disclosure statement (as amended on August 31, 2009 [Docket No. 261], the "**Original Disclosure Statement**").

On August 27, 2009, the Ad Hoc RGCH PIK Noteholders Committee served: (i) a Notice of Deposition upon Oral Examination, First Set of Interrogatories, and First Request for the Production of Documents on the Debtors; and (ii) a Notice of Deposition upon Oral Examination and First Request for the Production of Documents on Wayzata, one of the

members of the Ad Hoc Senior Noteholders Committee (such notices, the “**Discovery Requests**”). Because the Discovery Requests did not pertain to a contested matter, the Debtors and Wayzata disputed the rights of the Ad Hoc RGCH PIK Noteholders Committee to obtain discovery. After negotiations in connection therewith, the Debtors and Wayzata agreed to respond to the Discovery Requests.

On September 2, 2009, the Bankruptcy Court entered an order [Docket No. 254] approving the Original Disclosure Statement and authorizing RathGibson and Greenville to commence solicitation of votes in respect of the First Amended Plan. On September 8, 2009, the Ad Hoc RGCH PIK Noteholders Committee filed a preliminary objection to the First Amended Plan [Docket No. 266], stating their intention to assert objections to confirmation of the First Amended Plan based on: (i) the alleged bad faith basis of the First Amended Plan; (ii) the alleged failure of the First Amended Plan to satisfy certain requirements for confirmation under section 1129; and (iii) the allegedly improper releases granted in the First Amended Plan.

In September, 2009, the Debtors and Wayzata began reviewing and producing documents in response to the Discovery Requests and scheduling depositions. While such discovery was being conducted, the Debtors, Wayzata and the Ad Hoc RGCH PIK Noteholders Committee engaged in discussions regarding a consensual resolution of the Ad Hoc RGCH PIK Noteholders Committee’s objection to the First Amended Plan. During this time, the Debtors also began reviewing and analyzing the various Claims that each Debtor had against the other Debtors relating to several issues, including tax refunds, claims for reimbursement related to professional fees, preparation and filing of taxes and audit related fees. Contemporaneously, the Creditors’ Committee also inquired of the Debtors regarding certain Intercompany Claims.

During this period of time, the Debtors determined, in their business judgment, that it was in their and their estates’ best interests to further revise the First Amended Plan in order to implement a more efficient tax structure. Thereafter, the Debtors extensively discussed with the Ad Hoc Senior Noteholders Committee and the Creditors Committee various alternative restructuring scenarios. Ultimately, the Debtors determined that it was in their and their creditors’ best interests to pursue the proposed Sale, which included extensive, spirited negotiations with the Stalking Horse Bidder, to sell substantially all of their assets to the Stalking Horse Bidder or such other bidder that submits a higher or otherwise better offer at the Auction and in accordance with the Bid Procedures pursuant to the Second Amended Plan, is accepted by the Debtors and approved by the Bankruptcy Court. The Second Amended Plan not only reflects the revised restructuring plan but also reflects the Global Settlement with the Ad Hoc RGCH PIK Noteholders Committee and the Creditors’ Committee. On March 8, 2010, the Debtors filed the Second Amended Plan and this Disclosure Statement.



## ARTICLE XI.

### **CERTAIN RISK FACTORS TO BE CONSIDERED**

#### Important Risks to Be Considered

Holders of Claims against, or Interests in, the Debtors should read and consider carefully the following risk factors and the other information in this Disclosure Statement, the Second Amended Plan, the APA, the Plan Supplement and the other documents delivered or incorporated by reference in this Disclosure Statement and the Second Amended Plan, before voting to accept or reject the Second Amended Plan.

These risk factors should not, however, be regarded as constituting the only risks involved in connection with the Second Amended Plan and its implementation.

#### **11.1 *Certain Bankruptcy and Sale Considerations.***

##### **(a) General.**

Although the Second Amended Plan is designed to implement the Sale and provide distributions to creditors and certain interest holders funded by the Purchase Price in an expedient and efficient manner, it is impossible to predict with certainty the amount of time that the Debtors may spend in bankruptcy or to assure parties-in-interest that the Second Amended Plan will be confirmed.

If the Debtors are unable to obtain confirmation of the Second Amended Plan on a timely basis because of a challenge to confirmation of the Second Amended Plan or a failure to satisfy the conditions to consummation of the Second Amended Plan, they may be forced to operate in bankruptcy for an extended period while they try to develop a different chapter 11 plan that can be confirmed. Such a scenario could jeopardize the Debtors' relationships with their key vendors and suppliers, customers and employees, which, in turn, would have an adverse effect on the Debtors' operations. A material deterioration in the Debtors operations likely would diminish recoveries under any subsequent chapter 11 plan. Further, in such event, the Debtors' may not have sufficient liquidity to operate in bankruptcy for such an extended period.

##### **(b) Actual Plan Distributions may be less than estimated by the Debtors for the purposes of this Disclosure Statement.**

The projected Plan Distributions and recoveries set forth in this Disclosure Statement are based on the Purchase Price in the Stalking Horse Agreement of \$93 million in cash plus consideration of the liabilities anticipated to be assumed by the Stalking Horse Bidder plus the Debtors' estimates of Allowed Claims and Allowed Interests. The Debtors' project that the Claims and Interests asserted against them will be resolved in and reduced to an amount that

approximates their estimates. The Debtors have estimated at \$0 the two litigation-related claims filed against them. However, there can be no assurance that the Debtors' estimates, including relating to the litigation claims, will prove accurate. In the event such Claims and Interests are materially higher than the projected estimates, the Plan Distributions could be materially less than estimated.

- (c) **The Purchase Price allocation set forth herein may differ materially from the allocation to be performed by the Purchaser for federal income tax purposes.**

RG Tube and RGCH each are holding companies with no operations. As a result, the Debtors have not allocated any portion of the Purchase Price to either Debtor. Obligations of RG Tube and RGCH shall be satisfied from the RG Tube Cash, which is to be distributed in accordance with Section 8.9 of the Second Amended Plan. After: (i) payment of Allowed DIP Claims, Allowed Administrative Expense Claims, Allowed Fee Claims, U.S. Trustee Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims and Allowed Other Secured Claims; and (ii) funding of the Wind Down Account, the Debtors will allocate the remainder of the Purchase Price between RathGibson and Greenville, the two Debtors with operations, based on fiscal year 2010 revenue, such that RathGibson is allocated approximately 86% of the Purchase Price and Greenville is allocated approximately 14% of the Purchase Price.

The sole purpose of allocating the Purchase Price as of the date hereof is to provide holders of Allowed Claims and Allowed Interests an understanding of the projected Plan Distributions, however, the Purchase Price allocation set forth herein may differ materially from the allocation to be performed by the Purchaser for federal income tax purposes. The Purchase Price allocation set forth herein is not meant, and should not be construed as, binding on the Purchaser, but is merely a mechanism for the Debtors to make distributions under the Second Amended Plan and effect the Wind Down.

- (d) **If the Debtors do not deliver net working capital to the Stalking Horse Bidder in excess of \$71.8 million on the Effective Date, there will be a dollar-for-dollar downward adjustment in the Purchase Price.**

The Debtors have agreed with the Stalking Horse Bidder to a working capital adjustment mechanism and a target net working capital amount of \$71.8 million. If the closing date net working capital, which is defined as the current assets that are Purchased Assets less the current liabilities that are Assumed Liabilities, is less than \$71.8 million, then the Cash portion of the Purchase Price will be reduced on a dollar-for-dollar basis by the amount of the shortfall. Such reductions in the Cash portion of the Purchase Price will result in the Debtors having less post-closing Cash to deliver to its creditors and satisfy holders of Allowed Claims and Allowed Interests under the Plan (that are not being assumed by the Stalking Horse Bidder under the Stalking Horse Agreement). If there is a downward adjustment in the Purchase Price, the estimated recoveries to holders of Allowed Claims and Allowed Interests may be impacted materially.

(e) **The successful bidder in the Auction, if any, may not be the Stalking Horse Bidder.**

If an Auction is held and a party other than the Stalking Horse Bidder is the successful bidder, the Debtors will have determined, after consultation with the Creditors' Committee that such bid was higher or otherwise better than the Stalking Horse Bid. As a result of such successful bid, all executory contracts and unexpired leases of the Debtors not set forth on the Schedule of Rejected Contracts, as may be amended after the Auction, will be assumed by the applicable Debtor and assigned to the successful bidder. To the extent that the counterparties to those executory contracts and unexpired leases being assumed, assigned and/or transferred to the successful bidder do not timely object to such assumption, assignment and/or transferred, such counterparties will be: (i) barred, estopped and enjoined from disputing the Cure Cost relating to such executory contracts and unexpired leases set forth on the Assumption Notice, and if no such notice is received and such executory contracts and unexpired leases are not listed on the Schedule of Rejected Contracts and Leases (as may be amended), a Cure Cost of \$0.00; and (ii) be deemed to have consented to the assumption and assignment of such executory contracts and unexpired leases and shall be forever barred and estopped from asserting or claiming against the Debtors or the successful bidder that any additional amounts are due or defaults exist, or conditions to assumption and assignment of such executory contracts and unexpired leases must be satisfied (pursuant to Section 365(b)(1) of the Bankruptcy Code or otherwise).

(f) **The Debtors may adjourn certain deadlines.**

In certain circumstances, the Debtors may deem it appropriate to adjourn any or all of: the Voting Deadline, the Bid Deadline, the Auction and/or the Confirmation Hearing. While the Debtors estimate that the Effective Date will occur on or around June 16, 2010, they cannot assure you that applicable dates related to the foregoing will not be extended and the Effective Date will not be delayed.

(g) **The Debtors may not be able to secure confirmation of the Second Amended Plan.**

The Debtors cannot assure you that the requisite acceptances to confirm the Second Amended Plan will be received. Even if the requisite acceptances are received, the Debtors cannot assure you that the Bankruptcy Court will confirm the Second Amended Plan. A non-accepting creditor or equity security holder of the Debtors might challenge the balloting procedures and results as not being in compliance with the Bankruptcy Code or Bankruptcy Rules. Even if the Bankruptcy Court determined that the Disclosure Statement and the balloting procedures and results were appropriate, the Bankruptcy Court could still decline to confirm the Second Amended Plan if it found that any of the statutory requirements for confirmation had not been met. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, a finding by the Bankruptcy Court that the value of distributions to non-accepting holders of claims and interests within a particular Class under the Second Amended Plan will not be less than the value of distributions such holders would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. While the Debtors cannot

assure you that the Bankruptcy Court will conclude that these requirements have been met, the Debtors believe that non-accepting holders within each Class under the Second Amended Plan will receive distributions at least as great as would be received following a liquidation under chapter 7 of the Bankruptcy Code when taking into consideration all administrative claims and the costs and uncertainty associated with any such chapter 7 case.

If the Second Amended Plan is not confirmed, it is unclear whether a restructuring of the Debtors could be implemented and what distribution holders of Claims ultimately would receive with respect to their Claims. If an alternative restructuring could not be agreed to, it is possible that the Debtors would have to liquidate their assets, in which case it is likely that holders of Claims and Interests would receive substantially less favorable treatment than they would receive under the Second Amended Plan. There can be no assurance that the terms of any such alternative restructuring arrangement or chapter 11 plan would be similar to or as favorable to the Debtors' creditors as those proposed in the Second Amended Plan.

**(h) Failure to Consummate the Second Amended Plan.**

One condition to consummation of the Second Amended Plan is the entry of the Confirmation Order that will approve, among other things, the Sale. In addition, in order to consummate the Second Amended Plan, the Debtors must satisfy (or obtain waivers of) all conditions to closing under the APA. As of the date of this Disclosure Statement, there can be no assurance that these or the other conditions to consummation will be satisfied or waived. Accordingly, even if the Second Amended Plan is confirmed by the Bankruptcy Court and the Sale is approved, there can be no assurance that the Second Amended Plan or the APA will be consummated and the restructuring completed. If the APA is not consummated and the restructuring completed, these Chapter 11 Cases will be prolonged and the Debtors may lack sufficient liquidity to effect a successful restructuring under chapter 11 of the Bankruptcy Code.

**(i) Objections to Classification of Claims.**

Section 1122 of the Bankruptcy Code provides that a chapter 11 plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class. The Debtors believe that the classification of Claims and Interests under the Second Amended Plan complies with the requirements set forth in the Bankruptcy Code. However, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

**(j) The Debtors may object to the amount or classification of your claim.**

The Debtors reserve the right to object to the amount or classification of any Claim or Interest. The estimates set forth in this Disclosure Statement cannot be relied on by any creditor whose Claim or Interest is subject to an objection. Any such Claim or Interest holder may not receive its specified share of the estimated distributions described in this Disclosure Statement.

## **11.2 *Certain Tax Consequences of the Second Amended Plan Raise Unsettled and Complex Legal Issues and Involve Factual Determinations.***

The federal income tax consequences of the Second Amended Plan are complex and are subject to significant uncertainties. The Debtors currently do not intend to seek any ruling from the Internal Revenue Service (“**IRS**”) on the tax consequences of the Second Amended Plan. Even if the Debtors decide to request a ruling, there would be no assurance that the IRS would rule favorably or that any ruling would be issued before the Effective Date. In addition, in such case, there would still be issues with significant uncertainties, which would not be the subject of any ruling request. *Thus, there can be no assurance that the IRS will not challenge the various positions the Debtors have taken, or intend to take, with respect to the tax treatment in the Second Amended Plan, or that a court would not sustain such a challenge.*

## **ARTICLE XII.**

### **CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE SECOND AMENDED PLAN**

#### **12.1 *Introduction.***

The following discussion summarizes certain federal income tax consequences expected to result from the consummation of the Second Amended Plan. This discussion is only for general information purposes and only describes the expected tax consequences to holders entitled to vote on the Second Amended Plan. It is not a complete analysis of all potential federal income tax consequences and does not address any tax consequences arising under any state, local or foreign tax laws or federal estate or gift tax laws. This discussion is based on the IRC, Treasury Regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the IRS, all as in effect on the date of this Disclosure Statement. These authorities may change, possibly retroactively, resulting in federal income tax consequences different from those discussed below. No ruling has been or will be sought from the IRS, and no legal opinion of counsel will be rendered, with respect to the matters discussed below. There can be no assurance that the IRS will not take a contrary position regarding the federal income tax consequences resulting from the consummation of the Second Amended Plan or that any contrary position would not be sustained by a court.

This discussion assumes that holders of Claims have held such property as “capital assets” within the meaning of IRC Section 1221 (generally, property held for investment). In addition, this discussion assumes that the Debtors’ obligations under the Senior Notes and RGCH PIK Notes will be treated as debt for federal income tax purposes.

This discussion does not address all federal income tax considerations that may be relevant to a particular holder in light of that holder’s particular circumstances or to holders subject to special rules under the federal income tax laws, such as financial institutions, insurance companies, brokers, dealers or traders in securities, commodities or currencies, tax-exempt organizations, tax-qualified retirement plans, partnerships and other pass-through entities, foreign corporations, foreign trusts, foreign estates, holders who are not citizens or residents of the U.S., holders subject to the alternative minimum tax, holders holding Claims as

part of a hedge, straddle or other risk reduction strategy or as part of a conversion transaction or other integrated investment, holders who have a functional currency other than the U.S. dollar and holders that acquired the Claims in connection with the performance of services.

In addition, this discussion does not address the treatment of any fees to be paid pursuant to the Second Amended Plan.

HOLDERS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE U.S. FEDERAL INCOME TAX CONSEQUENCES TO THEM OF THE CONSUMMATION OF THE SECOND AMENDED PLAN AS WELL AS ANY TAX CONSEQUENCES ARISING UNDER ANY STATE, LOCAL OR FOREIGN TAX LAWS, OR ANY OTHER FEDERAL TAX LAWS.

**TO COMPLY WITH INTERNAL REVENUE SERVICE CIRCULAR 230, TAXPAYERS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED BY ANY TAXPAYER, FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A TAXPAYER UNDER THE INTERNAL REVENUE CODE, (B) ANY SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN, AND (C) TAXPAYERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.**

## **12.2 *Federal Income Tax Consequences to the Debtors.***

### **(a) *Sale of the Purchased Assets.***

The Debtors intend that the Sale to the Purchaser will be treated as a taxable transaction and that the Debtors will recognize any gain or loss realized on such Sale. To determine the amount of gain or loss realized by a Debtor on the Sale, the total consideration received in such Sale must be allocated among the assets sold in accordance with their relative fair market values. The gain or loss realized with respect to each asset is then determined separately by subtracting the selling Debtor's tax basis in such asset from the amount of consideration received (including the amount of any Assumed Liabilities) for such asset. Any gain recognized by the Debtors with respect to the Sale may be offset either by operating losses that have accrued during the current tax year or by the Debtors' net operating loss and/or capital loss carryforwards. However, the Debtors may recognize some alternative minimum tax as a result of the Sale to the extent any gain from the Sale is offset by net operating losses and/or capital loss carryforwards, and not by operating losses from the current tax year. Any resulting tax will be paid by the Debtors. It is expected that the Debtors will recognize a loss as a result of the Sale of the Purchased Assets and, therefore, should not have any U.S. federal income tax liability as result of the Sale.

(b) **Cancellation of Indebtedness and Reduction of Tax Attributes.**

The Debtors generally should realize COD Income to the extent the sum of: (i) cash and the fair market value of any property received by holders is less than the sum of (x) the adjusted issue price of any debt exchanged for Cash or other property pursuant to the Second Amended Plan, and (z) the amount of any unpaid accrued interest on such debt to the extent previously deducted by the Debtors.

The Debtors expect that the amount of COD Income realized upon consummation of the Second Amended Plan will be significant; however, the ultimate amount of COD Income realized by the Debtors is uncertain because, among other things, it will depend on the Purchase Price paid for the Purchased Assets pursuant to the Sale on the Effective Date. Estimated recoveries for the Debtors' various Claims are set forth in Article II above.

COD Income realized by a Debtor will be excluded from income if the discharge of debt occurs in a case brought under the Bankruptcy Code, the debtor is under the court's jurisdiction in such case and the discharge is granted by the court or is pursuant to a chapter 11 plan approved by the court (the "**Bankruptcy Exception**"). Because the Bankruptcy Exception will apply to the transactions consummated pursuant to the Second Amended Plan, the Debtors will not be required to recognize any COD Income realized as a result of the implementation of the Second Amended Plan.

A debtor that does not recognize COD Income under the Bankruptcy Exception generally must reduce certain tax attributes by the amount of the excluded COD Income. Attributes subject to reduction include NOLs, NOL carryforwards and certain other losses, credits and carryforwards, and the debtor's tax basis in its assets (including stock of subsidiaries). Usually a debtor must reduce the tax basis in its own assets first before then reducing stock of subsidiaries, following which the assets of subsidiaries may be reduced. A debtor's tax basis in its assets generally may not be reduced below the amount of liabilities remaining immediately after the discharge of indebtedness. If the debtor is a member of a consolidated group and reduces its basis in the stock of another group member, a "look-through rule" requires a corresponding reduction in the tax attributes of the lower-tier member. NOLs for the taxable year of the discharge and NOL carryovers to such year generally are the first attributes subject to reduction.

The Debtors believe that, for federal income tax purposes, the Debtors' consolidated group generated approximately \$60.7 million of consolidated NOLs in the tax year ending January 31, 2010, of which approximately \$51.7 million are expected to be carried forward, and likely will generate additional NOLs during the current tax year. However, the amount of the Debtors' NOLs will not be determined until the Debtors prepare their consolidated federal income tax returns for such periods. Moreover, the Debtors' NOLs are subject to audit and possible challenge by the IRS. Accordingly, the amount of the Debtors' NOLs ultimately may vary from the amounts set forth above.

The Debtors currently anticipate that the application of IRC Section 108(b) will likely eliminate its NOLs and NOL carryforwards and will cause a reduction of the tax bases of any assets of the Debtors that are not Purchased Assets in connection with the Sale. However,

the ultimate effect of the attribute reduction rules is uncertain because, among other things, it will depend on the amount of COD Income realized by the Debtors and the extent to which the Debtors are required to reduce other tax attributes.

(c) **Alternative Minimum Tax.**

In general, an alternative minimum tax (“**AMT**”) is imposed on a corporation’s alternative minimum taxable income (“**AMTI**”) at a 20% rate to the extent such tax exceeds the corporation’s regular federal income tax for the taxable year. For purposes of computing AMTI, certain tax deductions and other beneficial allowances are modified or eliminated, with further adjustments required if AMTI, determined without regard to adjusted current earnings (“**ACE**”), differs from ACE. A corporation that pays AMT generally is later allowed a nonrefundable credit (equal to a portion of its prior year AMT liability) against its regular federal income tax liability in future taxable years when it is no longer subject to the AMT.

**12.3 Federal Income Tax Consequences to Holders of Certain Claims.**

(a) **Receipt of Distributions Under the Second Amended Plan**

1. In General.

A holder of a Claim will generally recognize gain or loss on the exchange of the Claim for Cash or other property under the Second Amended Plan. Subject to the rules discussed below under “*Other Considerations—Accrued Interest*,” such gain or loss will generally be equal to the difference between (i) the sum of Cash received and (ii) the holder’s tax basis in its Claims. Subject to the rules discussed below under “*Other Considerations—Market Discount*,” any gain or loss generally will be capital gain or loss, and will be long-term capital gain or loss if the holder has held a Claim for more than one year as of the date of disposition. Holders should consult their tax advisors regarding the applicable tax rates and netting rules for capital gains and losses. There are limitations on the deduction of capital losses by both corporate and noncorporate taxpayers.

(b) **Other Considerations.**

*Accrued Interest.* There is general uncertainty regarding the extent to which the receipt of Cash or other property should be treated as attributable to unpaid accrued interest. In accordance with the Second Amended Plan, the Debtors take the position that Cash or property distributed pursuant to the Second Amended Plan will first be allocable to the principal amount of a holder’s Claim and then, to the extent necessary, to any unpaid accrued interest thereon. The IRS, however, could take a contrary position.

To the extent any property received pursuant to the Second Amended Plan is considered attributable to unpaid accrued interest, a holder will recognize ordinary income to the extent the value of the property exceeds the amount of unpaid accrued interest previously included in gross income by the holder. A holder’s tax basis in such property should be equal to the amount of interest income treated as satisfied by the receipt of the property, and its holding period in the property should begin on the day after the Effective Date. A holder generally will



be entitled to recognize a loss to the extent any accrued interest previously included in its gross income is not paid in full. HOLDERS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE EXTENT TO WHICH CONSIDERATION RECEIVED UNDER THE SECOND AMENDED PLAN SHOULD BE TREATED AS ATTRIBUTABLE TO UNPAID ACCRUED INTEREST.

*Market Discount.* A holder that acquires a debt instrument at a market discount generally is required to treat any gain realized on the disposition of the instrument as ordinary income to the extent of accrued market discount not previously included in gross income by the holder. However, special rules apply to the disposition of a market discount obligation in certain types of non-recognition transactions, such as a recapitalization.

**(c) Information Reporting and Backup Withholding.**

The Debtors (or their paying agent) may be obligated to furnish information to the IRS regarding the consideration received by holders (other than corporations and other exempt holders) pursuant to the Second Amended Plan.

Holders may be subject to backup withholding (currently, at a rate of 28%) on the consideration received pursuant to the Second Amended Plan. Certain holders (including corporations) generally are not subject to backup withholding. A holder that is not otherwise exempt generally may avoid backup withholding by furnishing to the Debtors (or their paying agent) its taxpayer identification number and certifying, under penalties of perjury, that the taxpayer identification number provided is correct and that the holder has not been notified by the IRS that it is subject to backup withholding.

Backup withholding is not an additional tax. Taxpayers may use amounts withheld as a credit against their federal income tax liability or may claim a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS.

THE FOREGOING DISCUSSION OF FEDERAL INCOME TAX CONSIDERATIONS IS FOR GENERAL INFORMATION PURPOSES ONLY AND IS NOT TAX ADVICE. EACH HOLDER SHOULD CONSULT ITS OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE SECOND AMENDED PLAN DESCRIBED HEREIN. NEITHER THE PROPONENTS NOR THEIR PROFESSIONALS WILL HAVE ANY LIABILITY TO ANY PERSON OR HOLDER ARISING FROM OR RELATED TO THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE SECOND AMENDED PLAN OR THE FOREGOING DISCUSSION.

**ARTICLE XIII.**

**PROCEDURES FOR DISTRIBUTIONS UNDER THE SECOND AMENDED PLAN**

**13.1 *Distribution Record Date.***

As of the close of business on the Distribution Record Date, the various lists of

holders of Claims and Interests in each of the Classes, as maintained by the Debtors, or their agents, shall be deemed closed and there shall be no further changes in the record holders of any of the Claims and Interests. Neither the Debtors nor the Disbursing Agent shall have any obligation to recognize any transfer of Claims or Interests occurring after the close of business on the Distribution Record Date. Additionally, with respect to payment of any Cure Costs or any Cure Disputes in connection with the assumption and/or assignment of the Debtors' executory contracts and leases, the Debtors shall have no obligation to recognize or deal with any party other than the non-Debtor party to the underlying executory contract or lease, even if such non-Debtor party has sold, assigned or otherwise transferred its Claim for a Cure Cost.

Notwithstanding the foregoing or anything in the Second Amended Plan to the contrary, in connection with any distribution under the Second Amended Plan to be effected through the facilities of DTC (whether by means of book-entry exchange, free delivery, or otherwise), the Debtors will be entitled to recognize and deal for all purposes under the Second Amended Plan with such holders to the extent consistent with the customary practices of DTC used in connection with such distribution. Distributions to be made on account of Allowed Senior Notes Claims shall be made by the Disbursing Agent to the Senior Notes Indenture Trustee or such other party designated by the Debtors, who shall also act as the transfer agent with respect to the Plan Consideration to be distributed to holders of Allowed Senior Notes Claims for further distribution in accordance with the terms of the Senior Notes Indenture or in accordance with the Second Amended Plan where such Senior Notes Indenture is silent. The Senior Notes Indenture Trustee shall cooperate and assist the Disbursing Agent and applicable transfer agent in connection with such distributions to the holders of Allowed Senior Notes Claims. Distributions to be made on account of Allowed RGCH PIK Notes Claims shall be made by the Disbursing Agent to the RGCH PIK Notes Agent, who shall act as the transfer agent with respect to the Class 5(a) Distribution for further distribution in accordance with the terms of the RGCH PIK Notes Credit Agreement or in accordance with the Plan where such RGCH PIK Notes Credit Agreement is silent. The RGCH PIK Notes Agent shall cooperate and assist the Disbursing Agent in connection with such distributions to the holders of Allowed RGCH PIK Notes Claims.

### **13.2 *Disbursing Agent.***

All distributions under the Second Amended Plan shall be made by the applicable Debtor or the Disbursing Agent on and after the Effective Date as provided therein. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court and, in the event that the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by the applicable Debtor. Furthermore, any such Person required to give a bond shall notify the Bankruptcy Court and the U.S. Trustee in writing before terminating any such bond that is obtained.

### **13.3 *Rights and Powers of Disbursing Agent.***

#### **(a) *Powers of Disbursing Agent.***

The Disbursing Agent shall be empowered to: (i) effect all actions and execute all

agreements, instruments, and other documents necessary to perform its duties under the Second Amended Plan, (ii) make all applicable distributions or payments contemplated thereby, (iii) employ professionals to represent it with respect to its responsibilities, and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court (including any order issued after the Effective Date), pursuant to the Second Amended Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions thereof.

**(b) Expenses Incurred on or After the Effective Date.**

Except as otherwise ordered by the Bankruptcy Court, and subject to the written agreement of the Debtors if the Disbursing Agent is a Person other than the Plan Administrator, the amount of any reasonable documented fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including, without limitation, taxes) and any reasonable compensation and expense reimbursement Claims (including, without limitation, reasonable attorney and other professional fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Debtors.

**13.4 Delivery of Distribution.**

The Disbursing Agent, subject to Bankruptcy Rule 9010, will make all distributions or payments to any holder of an Allowed Claim or an Allowed Interest as and when required by the Second Amended Plan at: (i) the address of such holder on the books and records of the Debtors or their agents; or (ii) at the address in any written notice of address change delivered to the Debtors or the applicable Disbursing Agent, including any addresses included on any filed proofs of Claim or Interest or transfers of Claim filed pursuant to Bankruptcy Rule 3001 (provided that such transfer of Claim is docketed by the Bankruptcy Court on or before twenty (21) days prior to the Distribution Record Date). In the event that any distribution to any holder is returned as undeliverable, no distribution or payment to such holder shall be made unless and until the applicable Disbursing Agent has been notified of the then current address of such holder, at which time or as soon as reasonably practicable thereafter such distribution shall be made to such holder without interest, provided, however, such distributions or payments shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of ninety days from the later of: (i) the Effective Date; and (ii) the date such holder's Claim or Interest is first Allowed; provided, further, however, that any holder of an Allowed Claim or Allowed Interest that does not provide a current address to the Debtors within 120 days after the date on which a distribution was deliverable to such holder of an Allowed Claim or Allowed Interest shall be treated as though such Claim or Interest has been disallowed. Any such undeliverable distribution shall be made available for distribution to the holders of the remaining Allowed Claims and Allowed Interests, as applicable, and no further payments shall be made to the holder of an Allowed Claim or an Allowed Interest on account of such undeliverable distribution.

**13.5 Unclaimed Property.**

Holders of Allowed Claims and Allowed Interests shall have 120 days from the date of any Plan Distribution check to negotiate such checks. To the extent such checks are not

negotiated within such time period, the payment on such applicable checks shall be stopped and the corresponding funds shall be made available for distribution to the remaining holders of Allowed Claims and Allowed Interests, as applicable, no further payments shall be made to the holder of an Allowed Claim or an Allowed Interest on account of such unclaimed property and such Claim or Interest shall be treated as though such Claim or Interest has been disallowed. The Debtors and the Disbursing Agent shall have no obligation to attempt to locate any holder of an Allowed Claim or Allowed Interest other than by reviewing the Debtors' books and records, proofs of Claim or proofs of Interest filed against the Debtors or transfers of Claim filed pursuant to Bankruptcy Rule 3001 (provided that such transfer of Claim is docketed by the Bankruptcy Court on or before twenty (21) days prior to the Distribution Record Date).

### **13.6 Reserve Accounts**

On or as soon as practicable after the Effective Date, the Plan Administrator shall establish and maintain separate reserve accounts as set forth in the Second Amended Plan and for Disputed Claims and Interests against each Debtor if such Claims and Interests were to become Allowed Claims or Allowed Interests. Each such reserve account shall be funded from that portion of the Purchase Price allocated to each Debtor after: (i) first, payment in full of Allowed DIP Claims, Allowed Administrative Expense Claims, Allowed Fee Claims, U.S. Trustee Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims and Allowed Other Secured Claims, and (ii) second, funding of the Wind Down Account, for the payment of Allowed Claims or Allowed Interests, as applicable, against each such Debtor pursuant to the terms of the Second Amended Plan and for the benefit of the holders of Disputed Claims or Disputed Interests in the applicable Class. Other than establishing and maintaining one separate account for each Debtor, reserves may be merely bookkeeping entries or accounting methodologies, which may be revised from time to time, as appropriate.

### **13.7 Distribution of RG Tube Cash.**

The RG Tube Cash shall be distributed as follows:

- (a) first, to pay (or provide for the payment of): (i) the Allowed RGCH PIK Notes Agent Claims; and (ii) the Allowed Ad Hoc RGCH PIK Noteholders Committee Fee Claims;
- (b) second, to make the Class 6(a) Distribution;
- (c) third, to make the Class 6(b) Distribution;
- (d) fourth, to make the Class 5(a) Distribution; and
- (e) fifth, to make the Class 5(b) Distribution.

As part of the settlements and compromises contained in the Second Amended Plan, any remainder, after payment in accordance with (a) through (e) above shall be distributed to RathGibson to be distributed to its creditors in accordance with the Second Amended Plan.

### **13.8 *Fractional Cents.***

Notwithstanding any other provision of the Second Amended Plan to the contrary, no payment of fractions of cents will be made. Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding down of such fraction to the nearest whole cent.

### **13.9 *No Distribution in Excess of Amount of Allowed Claim.***

No holder of an Allowed Claim shall, on account of such Allowed Claim, receive a Plan Distribution (of a value set forth therein) in excess of the Allowed amount of such Claim plus postpetition interest on such Claim (but only to the extent interest is provided in Section 8.2 of the Second Amended Plan).

### **13.10 *Withholding and Reporting Requirements.***

In connection with the Second Amended Plan and all distributions thereunder, the Debtors shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Plan Distributions hereunder shall be subject to any such withholding and reporting requirements. The Debtors shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including, without limitation, liquidating a portion of any Plan Distribution to generate sufficient funds to pay applicable withholding taxes or establishing any other mechanisms the Debtors or the Disbursing Agent believe are reasonable and appropriate, including requiring a holder of a Claim or Interest to submit appropriate tax and withholding certifications. Notwithstanding any other provision of the Second Amended Plan: (i) each holder of an Allowed Claim and/or an Allowed Interest that is to receive a distribution under the Second Amended Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations on account of such distribution; and (ii) no Plan Distributions shall be required to be made to or on behalf of such holder pursuant to the Second Amended Plan if, after 120 days from the date of transmission of a written request to the holder of an Allowed Claim or Allowed Interest, the Debtor does not receive a valid, completed IRS form from such holder of an Allowed Claim or Allowed Interest, which is otherwise required for IRS reporting purposes, and such holder shall be treated as if their Claims or Interests had been disallowed.

## **ARTICLE XIV.**

### **PROCEDURES FOR RESOLVING CLAIMS**

#### **14.1 *Objections to Claims.***

Other than with respect to Fee Claims, only the Debtors shall be entitled to object to Claims after the Effective Date. Any objections to those Claims (other than Administrative Expense Claims), shall be served and filed on or before the later of: (i) one-hundred twenty (120) days after the Effective Date; and (ii) such other date as may be fixed by the Bankruptcy Court, whether fixed before or after the date specified in clause (i) hereof. Any Claims filed

after the Bar Date or Administrative Expense Claims Bar Date, as applicable, shall be deemed disallowed and expunged in their entirety without further order of the Bankruptcy Court or any action being required on the part of the Debtors, unless the Person wishing to file such untimely Claim has received Bankruptcy Court authority to do so. Notwithstanding any authority to the contrary, an objection to a Claim shall be deemed properly served on the claimant if the objecting party effects service in any of the following manners: (i) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004; (ii) by first class mail, postage prepaid, on the signatory on the proof of claim as well as all other representatives identified in the proof of claim or any attachment thereto; or (iii) if counsel has agreed to or is otherwise deemed to accept service, by first class mail, postage prepaid, on any counsel that has appeared on the claimant's behalf in the Chapter 11 Cases (so long as such appearance has not been subsequently withdrawn). From and after the Effective Date, the Debtors may settle or compromise any Disputed Claim without need for notice or approval of the Bankruptcy Court.

#### **14.2 *Amendment to Claims.***

From and after the Effective Date and in accordance with the Bar Date Order and the Administrative Expense Claims Bar Date Order (or such deadline as established pursuant to Section 3.2 of the Second Amended Plan and the Confirmation Order), unless a claimant has obtained prior Bankruptcy Court approval, no Claim may be filed to increase or assert additional claims not reflected in an already filed Claim (or Claim scheduled, unless superseded by a filed Claim, on the applicable Debtor's Schedules of Assets and Liabilities filed in the Chapter 11 Cases) asserted by such claimant and any such Claim shall be deemed disallowed and expunged in its entirety without further order of the Bankruptcy Court or any action being required on the part of the Debtors. Notwithstanding anything contained herein or the Second Amended Plan to the contrary, unless otherwise ordered by the Bankruptcy Court, no reserves shall be required to be established or maintained with respect to Claims or Administrative Expense Claims filed after the applicable Bar Date.

#### **14.3 *Disputed Claims and Disputed Interests.***

Except as provided in Section 9.3 of the Second Amended Plan, Disputed Claims and Disputed Interests shall not be entitled to any Plan Distributions unless and until such Claims or Interests become Allowed Claims or Allowed Interests, as applicable.

On each Distribution Date (or such earlier date as determined by the Debtors or the Disbursing Agent in their sole discretion but subject to Section 9.3 of the Second Amended Plan), the Disbursing Agent will make distributions or payments: (i) on account of any Disputed Claim or Disputed Interest that has become an Allowed Claim or Allowed Interest, as applicable, since the occurrence of the previous Distribution Date; and (ii) on account of previously Allowed Claims of property or Allowed Interests that would have been distributed or paid to the holders of such Claims or Interests on the dates distributions previously were made to holders of Allowed Claims or Allowed Interests, as applicable, in such Class had the Disputed Claims and Disputed Interests that have become Allowed Claims or Allowed Interests been Allowed on such dates. The Disbursing Agent shall distribute in respect of such newly Allowed Claims and

Allowed Interests the Plan Consideration as to which holders of such Claims would have been entitled under the Second Amended Plan if such newly Allowed Claims and Allowed Interests were fully or partially Allowed, as the case may be, on the Effective Date, less direct and actual expenses, fees, or other direct costs of maintaining Plan Consideration on account of such Disputed Claims and Disputed Interests, as applicable.

Except as otherwise provided in the Second Amended Plan, to the extent any Disputed Claim or Disputed Interest has become Disallowed in full or in part (in accordance with the procedures set forth in the Plan), any Plan Consideration held by the Debtors on account of, or to pay, such Disputed Claim or Disputed Interest, including amounts held in any reserve, shall become the sole and exclusive property of the applicable Debtor and shall be applied in accordance with the terms of the Second Amended Plan.

#### **14.4 *Estimation of Claims; Certain Reserves.***

For purposes of calculating and making distributions under the Second Amended Plan, the Debtors shall be entitled to estimate, in good faith and with due regard to litigation risks associated with Disputed Claims, the maximum dollar amount of Allowed and Disputed Claims, inclusive of contingent and/or unliquidated Claims in a particular Class. The Debtors may request that the Bankruptcy Court estimate any Claim pursuant to section 502(c) of the Bankruptcy Code for purposes of determining the Allowed amount of such Claim regardless of whether any Person has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim for purposes of determining the allowed amount of such Claim at any time. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim for allowance purposes, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the objecting party may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Second Amended Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, resolved or withdrawn by any mechanism approved by the Bankruptcy Court.

#### **14.5 *Directors' and Officers Claims.***

All contingent and unliquidated Claims relating from the obligation of a Debtor to exculpate, indemnify and advance any expenses to any Person serving at any time for one or more of the Debtors as one of its directors or officers (statutory or otherwise) by reason of such Person's service in such capacity, or as a director or officer (statutory or otherwise) of any other corporation or legal entity, for acts or omissions occurring at or prior to the Effective Date, whether asserted or claimed prior to, at or after the Effective Date, to the extent provided in such Debtor's constituent documents, a written agreement with the Debtor, in accordance with any applicable law, or any combination of the foregoing, shall be treated under the Second Amended Plan as a Claim for \$0.00 and the Debtors shall have no obligation to reserve any amounts therefor; provided, nothing in the Second Amended Plan shall effect the right of any such

directors or officers (statutory or otherwise) to proceed against any Debtors' insurance policies, insurance proceeds or any insurer thereof nor effect the value of such Claims in respect of same.

#### **14.6 *No Recourse.***

Notwithstanding that the Allowed amount of any particular Disputed Claim or Disputed Interest is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is Allowed in an amount for which after application of the payment priorities established by the Second Amended Plan there is insufficient value to provide a recovery equal to that received by other holders of Allowed Claims or Allowed Interests in the respective Class, no Claim or Interest holder shall have recourse against the Disbursing Agent, the Debtors, the Plan Administrator, the Purchaser or any of their respective professionals, consultants, officers, directors, employees or members or their successors or assigns, or any of their respective property. However, nothing in the Second Amended Plan shall modify any right of a holder of a Claim under section 502(j) of the Bankruptcy Code, nor shall it modify or limit the ability of claimants (if any) to seek disgorgement to remedy any unequal distribution from parties other than those released under this section. THE ESTIMATION OF CLAIMS AND THE ESTABLISHMENT OF RESERVES UNDER THE SECOND AMENDED PLAN MAY LIMIT THE DISTRIBUTION TO BE MADE ON INDIVIDUAL DISPUTED CLAIMS, REGARDLESS OF THE AMOUNT FINALLY ALLOWED ON ACCOUNT OF SUCH DISPUTED CLAIMS.

#### **14.7 *No Successor Liability.***

Except as otherwise expressly provided in the Second Amended Plan or the APA, the Purchaser does not, pursuant to the Second Amended Plan or otherwise, assume, agree to perform, pay or indemnify or otherwise have any responsibilities for any liabilities or obligations of the Debtors or any other party relating to or arising out of the operations of or assets of the Debtors, whether arising prior to, on, or after the Effective Date. The Purchaser is not, and shall not be, a successor to any of the Debtors by reason of any theory of law or equity, and it shall not have any successor or transferee liability of any kind or character, except that the Purchaser shall assume the Assumed Liabilities under the terms and subject to the conditions set forth in the APA.



**ARTICLE XV.**

**CONCLUSION**

The Debtors believe that confirmation and implementation of the Second Amended Plan is preferable to any of the alternatives described herein because it will provide the greatest recovery to holders of Claims and Interests. Other alternatives would involve significant delay, uncertainty and substantial administrative costs and are likely to reduce any return to creditors who hold Claims. The Debtors urge the holders of impaired Claims in Classes 3(b), 4(a), 5(a), 5(b) and 6(a) and Interests in Class 6(b) who are entitled to vote on the Second Amended Plan, to vote to accept the Second Amended Plan and to evidence such acceptance by returning their Ballots to the Voting Agent so that they will be received not later than 4:00 p.m. (prevailing Eastern Time) on May 11, 2010.

Dated: March 8, 2010  
Wilmington, Delaware

Respectfully submitted,

RATHGIBSON, INC.,

By: 

Michael Schwartz  
President and Chief Executive Officer

GREENVILLE TUBE COMPANY

By: 

Michael Schwartz  
President and Chief Executive Officer

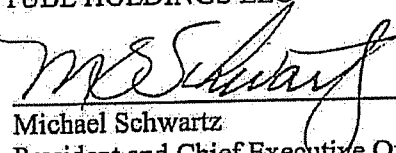
RGCH HOLDINGS CORP.

By: 

Michael Schwartz  
President and Chief Executive Officer

RG TUBE HOLDINGS LLC

By:



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(302) 571-6600

Co-Counsel for Debtors  
and Debtors In Possession

**Exhibit 1**

**The Plan**

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

|                                   |   |                         |
|-----------------------------------|---|-------------------------|
| In re                             | ) | Chapter 11              |
| RathGibson, Inc., <u>et al.</u> , | ) | Case No. 09-12452 (CSS) |
| Debtors.                          | ) | Jointly Administered    |

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**SECOND AMENDED JOINT CHAPTER 11 PLAN FOR RATHGIBSON, INC., ET AL.**

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**Nothing contained herein shall constitute an offer, acceptance or a legally binding obligation of the Debtors or any other party in interest and this Plan is subject to approval of the Bankruptcy Court and other customary conditions. This Plan is not an offer with respect to any securities. This is not a solicitation of acceptances or rejections of the Plan. Acceptances or rejections with respect to this Plan may not be solicited until a disclosure statement has been approved by the United States Bankruptcy Court for the District of Delaware. Such a solicitation will only be made in compliance with applicable provisions of securities and/or bankruptcy laws. YOU SHOULD NOT RELY ON THE INFORMATION CONTAINED IN, OR THE TERMS OF, THIS PLAN FOR ANY PURPOSE (INCLUDING IN CONNECTION WITH THE PURCHASE OR SALE OF THE DEBTORS' SECURITIES) PRIOR TO THE APPROVAL OF THIS PLAN BY THE BANKRUPTCY COURT.**

Dated: Wilmington, Delaware  
March 8, 2010

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## INTRODUCTION<sup>1</sup>

RathGibson, Inc., Greenville Tube Company, RGCH Holdings Corp. and RG Tube Holdings LLC, the Debtors in the above-captioned cases, propose the following second amended joint chapter 11 plan for the resolution of the Claims against and Interests in the Debtors. Reference is made to the Disclosure Statement for a discussion of the Debtors' history, business, properties and operations, projections for those operations, risk factors, a summary and analysis of this Plan, and certain related matters including, among other things, certain tax matters, the Sale and the consideration to be issued and/or distributed under this Plan. Subject to certain restrictions and requirements set forth in 11 U.S.C. § 1127, Fed. R. Bankr. P. 3019 and Sections 14.6 and 14.7 hereof, the Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan prior to its substantial consummation.

The only Persons that are entitled to vote on this Plan are the holders of Rath General Unsecured Claims, Greenville General Unsecured Claims, RGCH General Unsecured Claims, RGCH PIK Notes Claims, RG Tube General Unsecured Claims and Existing RG Tube Interests. Such Persons are encouraged to read the Plan and the Disclosure Statement and their respective exhibits and schedules in their entirety before voting to accept or reject the Plan. No materials other than the Disclosure Statement and the respective schedules and exhibits attached thereto and referenced therein have been authorized by the Bankruptcy Court for use in soliciting acceptances or rejections of the Plan.

## ARTICLE I.

### DEFINITIONS AND INTERPRETATION

#### A. *Definitions.*

The following terms shall have the meanings set forth below (such meanings to be equally applicable to both the singular and plural):

**1.1. *Ad Hoc RGCH PIK Noteholders Committee*** means that certain ad hoc committee of certain holders of RGCH PIK Notes.

**1.2. *Ad Hoc RGCH PIK Noteholders Committee Advisors*** means, in their respective capacity as such, Kasowitz, Benson, Torres & Friedman LLP and Bifferato Gentilotti LLC, as counsel to the Ad Hoc RGCH PIK Noteholders Committee.

**1.3. *Ad Hoc RGCH PIK Noteholders Committee Fee Claims*** means all Claims for the reasonable documented fees and expenses of the Ad Hoc RGCH PIK Noteholders Committee Advisors, without any requirement for the filing of retention or fee applications in the Chapter 11 Cases, in an aggregate amount of all such fees and expenses not to exceed \$75,000.

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<sup>1</sup> All capitalized terms used but not defined herein have the meanings set forth in Article I herein.

**1.4. *Ad Hoc Senior Noteholders Committee*** means that certain ad hoc committee of certain holders of Senior Notes.

**1.5. *Ad Hoc Senior Noteholders Committee Advisors*** means, in their respective capacity as such, Stroock & Stroock & Lavan LLP and Richards, Layton & Finger P.A., as counsel to the Ad Hoc Senior Noteholders Committee, and any financial advisor that may be retained by the Ad Hoc Senior Noteholders Committee.

**1.6. *Ad Hoc Senior Noteholders Committee Fee Claims*** means all Claims for: (a) the reasonable documented fees and expenses of the Ad Hoc Senior Noteholders Committee Advisors, without any requirement for the filing of retention applications or fee applications in the Chapter 11 Cases; and (b) reasonable documented out-of-pocket expenses incurred by members of the Ad Hoc Senior Noteholders Committee.

**1.7. *Administrative Expense Claims*** means any right to payment constituting a cost or expense of administration of the Chapter 11 Cases of the kind specified in section 503(b) of the Bankruptcy Code and entitled to priority pursuant to sections 328, 330, 363, 364(c)(1), 365, 503(b), 507(a)(2) or 507(b) of the Bankruptcy Code (other than a Fee Claim or U.S. Trustee Fees) for the period from the Petition Date to the Effective Date, including, without limitation: (a) any actual and necessary costs and expenses of preserving the Estates, any actual and necessary costs and expenses of operating the Debtors' business, and any indebtedness or obligations incurred or assumed by the Debtors during the Chapter 11 Cases; (b) any payment to be made under this Plan to cure a default on an assumed executory contract or unexpired lease; (c) all Senior Notes Indenture Trustee Claims, without any requirement for filing fee applications in the Chapter 11 Cases; (d) the Ad Hoc Senior Noteholders Committee Fee Claims, without any requirement for filing fee applications in the Chapter 11 Cases; (e) the RGCH PIK Notes Agent Claims, without any requirement for filing fee applications in the Chapter 11 Cases; and (f) the Ad Hoc RGCH PIK Noteholders Committee Fee Claims, without any requirement for filing fee applications in the Chapter 11 Cases.

**1.8. *Administrative Expense Claims Bar Date*** means, as applicable, (a) such deadline for filing certain Administrative Expense Claims that arose after the Petition Date through [\_\_\_\_\_], 2010, as established by and in accordance with the Administrative Expense Claims Bar Date Order, and (b) such deadline as established pursuant to Section 3.2(a) of this Plan and the Confirmation Order.

**1.9. *Administrative Expense Claims Bar Date Order*** means the Order, dated [\_\_\_\_\_], 2010, entered by the Bankruptcy Court establishing [\_\_\_\_\_], 2010 as the last day to file certain Administrative Expense Claims against the Debtors arising during the period July 13, 2009 through and including [\_\_\_\_\_], 2010.

**1.10. *Allowed Claim*** or Allowed [\_\_\_\_\_] Claim (with respect to a specific type of Claim, if specified) means: (a) any Claim (or a portion thereof) as to which no action to dispute, deny, equitably subordinate or otherwise limit recovery with respect thereto, or alter priority thereof, has been sought within the applicable period of limitation fixed by this Plan or applicable law, except to the extent the Debtors object to the enforcement of such Claim or, if an action to dispute, deny, equitably subordinate or otherwise limit recovery with respect thereto, or

alter priority thereof, has been sought, to the extent such Claim has been allowed (whether in whole or in part) by a Final Order of a court of competent jurisdiction with respect to the subject matter; or (b) any Claim or portion thereof that is allowed (i) in any contract, instrument, indenture or other agreement entered into in connection with the Plan, (ii) pursuant to the terms of the Plan, (iii) by Final Order of the Bankruptcy Court, or (iv) with respect to an Administrative Expense Claim only (x) that was incurred by a Debtor in the ordinary course of business during the Chapter 11 Cases to the extent due and owing without defense, offset, recoupment or counterclaim of any kind, and (y) that is not otherwise disputed.

**1.11. *Allowed Interest*** or Allowed RG Tube Interest means an Existing RG Tube Interest that is a unit registered in such limited liability company interest register as may be maintained by or on behalf of RG Tube, except to the extent the Debtors object to the enforcement of such Interest or, if so objected to, to the extent such Interest has been Allowed (whether in whole or in part) by a Final Order.

**1.12. *APA*** means either: (i) the Stalking Horse Agreement; or (ii) such other asset purchase agreement that the Debtors may execute with such other Person that submits the highest or otherwise best bid for the Purchased Assets at the Auction in accordance with the Bid Procedures Order and that is approved by the Bankruptcy Court.

**1.13. *Assets*** means all of the right, title and interest of the Debtors in and to property of whatever type or nature (real, personal, mixed, intellectual, tangible or intangible).

**1.14. *Assigned Contracts*** has the meaning set forth in Section 10.3 of this Plan.

**1.15. *Assumed Liabilities*** has the meaning given to such term in the APA.

**1.16. *Assumption Notice*** has the meaning set forth in Section 10.3 of this Plan.

**1.17. *Auction*** means the auction for the Purchased Assets to be held in accordance with the Bid Procedures Order.

**1.18. *Backstop Equity Investors*** means those Persons party to that certain Backstop Agreement, dated as of August 21, 2009, that was filed with the Bankruptcy Court, or any of their respective successors or permitted assigns thereunder; provided, however, in the event the Backstop Equity Investors do not waive the “break-up fee” under that certain Backstop Purchase Agreement, dated August 21, 2009, all references to Backstop Equity Investors in the Plan shall be deemed struck and of no force and effect.

**1.19. *Ballot*** means the form distributed to holders of impaired Claims entitled to vote on the Plan on which is to be indicated the acceptance or rejection of the Plan approved by the Bankruptcy Court.

**1.20. *Bankruptcy Code*** means title 11 of the United States Code, as amended from time to time, as applicable to the Chapter 11 Cases.

**1.21. *Bankruptcy Court*** means the United States Bankruptcy Court for the District of Delaware, or any other court exercising competent jurisdiction over the Chapter 11 Cases or any proceeding therein.

**1.22. *Bankruptcy Rules*** means the Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time, applicable to the Chapter 11 Cases, and any Local Rules of the Bankruptcy Court.

**1.23. *Bar Date*** means the deadline for filing proofs of Claim that arose on or prior to the Petition Date, as established by the Bar Date Order.

**1.24. *Bar Date Order*** means that certain Order, dated July 14, 2009, entered by the Bankruptcy Court establishing: (i) with respect to all Persons other than governmental units (as defined in section 101(27) of the Bankruptcy Code), September 2, 2009, and (ii) with respect to governmental units, January 11, 2010, in both cases, as the last date to assert Claims against the Debtors that arose prior to or on the Petition Date.

**1.25. *Bid Procedures*** means the bid procedures for the Sale, as set forth in the Bid Procedures Order.

**1.26. *Bid Procedures Order*** means that certain Order, dated [\_\_\_\_], 2010, entered by the Bankruptcy Court approving, among other things, the Bid Procedures and the bid protections set forth in the Stalking Horse Agreement.

**1.27. *Business Day*** means any day other than a Saturday, Sunday, or a “legal holiday,” as defined in Bankruptcy Rule 9006(a).

**1.28. *Cash*** means the legal currency of the United States and equivalents thereof.

**1.29. *Causes of Action*** means any and all actions, causes of action (including avoidance actions), suits, accounts, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment, and Claims, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, unsecured and whether asserted or assertable directly or derivatively, in law, equity or otherwise.

**1.30. *Chapter 11 Cases*** means the jointly administered cases under chapter 11 of the Bankruptcy Code commenced by the Debtors on the Petition Date in the Bankruptcy Court and styled *In re RathGibson, Inc., et al.*, No. 09-12452 (CSS) (Jointly Administered).

**1.31. *Claim*** means any “claim” (as defined in section 101(5) of the Bankruptcy Code) against any Debtor.

**1.32. *Claims Agent*** means The Garden City Group, Inc., or any other Person approved by the Bankruptcy Court to act as the Debtors’ claims and noticing agent pursuant to 28 U.S.C. §156(c).

**1.33. Class** means each category of Claims or Interests established under Article IV of the Plan pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

**1.34. Class 3(b) Distribution** means the aggregate amount of Cash or other funds of the Debtors available for payment of Allowed Rath General Unsecured Claims, after: (i) first, payment in full of Allowed DIP Claims, Allowed Administrative Expense Claims, Allowed Fee Claims, U.S. Trustee Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims and Allowed Other Secured Claims; (ii) second, funding of the Wind Down Account; and (iii) third, allocation of the remainder of the Purchase Price attributable to RathGibson after payment of the amounts required to satisfy (i) and (ii).

**1.35. Class 4(a) Distribution** means the aggregate amount of Cash or other funds of the Debtors available for payment of Allowed Greenville General Unsecured Claims, after: (i) first, payment in full of Allowed DIP Claims, Allowed Administrative Expense Claims, Allowed Fee Claims, U.S. Trustee Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims and Allowed Other Secured Claims; (ii) second, funding of the Wind Down Account; and (iii) third, allocation of the remainder of the Purchase Price attributable to Greenville after payment of the amounts required to satisfy (i) and (ii).

**1.36. Class 5(a) Distribution** means Cash in the amount of \$300,000, to be distributed solely from the RG Tube Cash.

**1.37. Class 5(b) Distribution** means the aggregate amount of Cash or other funds of the Debtors available for payment of Allowed RGCH General Unsecured Claims from the RG Tube Cash in accordance with section 8.9 of this Plan.

**1.38. Class 6(a) Distribution** means Cash in the amount of \$310,000, to be distributed solely from the RG Tube Cash.

**1.39. Class 6(b) Distribution** means Cash in the amount of \$25,000, to be distributed solely from the RG Tube Cash.

**1.40. Collateral** means any property or interest in property of the Debtors subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance or otherwise invalid under the Bankruptcy Code or applicable state law.

**1.41. Confirmation Date** means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

**1.42. Confirmation Hearing** means a hearing to be held by the Bankruptcy Court regarding confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

**1.43. Confirmation Order** means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

**1.44. *Creditors' Committee*** means the statutory committee of unsecured creditors appointed in the Chapter 11 Cases in accordance with section 1102 of the Bankruptcy Code, as the same may be reconstituted from time to time.

**1.45. *Cure Costs*** has the meaning set forth in Section 10.3 of this Plan.

**1.46. *Cure Dispute*** has the meaning set forth in Section 10.3 of this Plan.

**1.47. *Cure Schedule*** has the meaning set forth in Section 10.3 of this Plan.

**1.48. *Debtor(s)*** means, individually or collectively, RathGibson, Greenville, RGCH and RG Tube, before and after the Effective Date, as the context requires.

**1.49. *DIP Administrative Agent*** means Wilmington Trust FSB, solely in its capacity as administrative agent under the DIP Credit Agreement, or any other administrative agent appointed pursuant to Section 12.6 therein.

**1.50. *DIP Claims*** means all Claims held by the DIP Administrative Agent and/or the DIP Lenders arising under or pursuant to the Final DIP Order and the DIP Credit Documents, including, without limitations, Claims for the fees, reasonable and documented expenses, costs and other charges of the DIP Administrative Agent and the DIP Lenders (including those of their respective counsel and advisors).

**1.51. *DIP Credit Agreement*** means that certain Secured Super-Priority Debtor in Possession Multiple Draw Term Loan Agreement dated as of July 16, 2009, among RathGibson, as borrower, Greenville and RGCH, as guarantors, the DIP Lenders, and the DIP Administrative Agent, as amended, supplemented or otherwise modified from time to time.

**1.52. *DIP Credit Documents*** means, collectively: (a) the DIP Credit Agreement; (b) the DIP Orders; and (c) all documents and instruments executed in connection therewith (excluding that certain Plan Support Agreement, dated as of July 13, 2009, entered into by and among the Debtors and certain holders of Senior Notes Claims, as amended, supplemented or otherwise modified from time to time).

**1.53. *DIP Lenders*** means, collectively, and as of the relevant time, those lenders that are party to the DIP Credit Agreement.

**1.54. *DIP Orders*** means the Interim DIP Order and the Final DIP Order.

**1.55. *Disallowed*** means a finding of the Bankruptcy Court in a Final Order, or provision in the Plan providing, that a Disputed Claim shall not be an Allowed Claim.

**1.56. *Disbursing Agent*** means, for purposes of making distributions under the Plan, the Debtors or a designee thereof (including the Plan Administrator).

**1.57. *Disclosure Statement*** means the disclosure statement that relates to this Plan, as such disclosure statement may be amended, modified, or supplemented from time to time (including all exhibits and schedules annexed thereto or referred to therein).

**1.58. *Disclosure Statement Hearing*** means a hearing held by the Bankruptcy Court to consider approval of the Disclosure Statement as containing adequate information as required by section 1125 of the Bankruptcy Code, as the same may be adjourned or continued from time to time.

**1.59. *Disputed Claim*** means, as of any relevant date, any Claim, or any portion thereof: (a) that is not an Allowed Claim or Disallowed Claim as of the relevant date; or (b) for which a proof of Claim has been timely filed with the Bankruptcy Court or a written request for payment has been made, to the extent the Debtors or any party in interest has interposed a timely objection or request for estimation, which objection or request for estimation has not been withdrawn or determined by a Final Order as of the relevant date.

**1.60. *Disputed Interests*** means, as of any relevant date, any Interest, or any portion thereof: (a) that is not an Allowed Interest or Disallowed Interest as of the relevant date; or (b) for which a proof of Interest has been timely filed with the Bankruptcy Court or a written request for payment has been made, to the extent the Debtors or any party in interest has interposed a timely objection or request for estimation, which objection or request for estimation has not been withdrawn or determined by a Final Order as of the relevant date.

**1.61. *Distribution Date*** means: (a) the Initial Distribution Date; (b) any Interim Distribution Date; or (c) the Final Distribution Date, as the context requires.

**1.62. *Distribution Record Date*** means, with respect to all Classes, the third (3rd) Business Day after the date the Confirmation Order is entered by the Bankruptcy Court or such other date as shall be established by the Bankruptcy Court in (a) the Confirmation Order or, (b) upon request of the Debtors, a separate order of the Bankruptcy Court.

**1.63. *DTC*** means the Depository Trust Company.

**1.64. *Effective Date*** means the first Business Day on which all conditions to the Effective Date set forth in Section 11.2 hereof have been satisfied or waived, and no stay of the Confirmation Order is in effect.

**1.65. *Estate*** means each estate created in the Chapter 11 Cases pursuant to section 541 of the Bankruptcy Code.

**1.66. *Excluded Assets*** has the meaning given to such term in the APA.

**1.67. *Existing Greenville Interests*** means the Interests in Greenville outstanding immediately prior to the Effective Date.

**1.68. *Existing Rath Interests*** means the Interests in RathGibson outstanding immediately prior to the Effective Date.

**1.69. *Existing RG Tube Interests*** means the Interests in RG Tube outstanding immediately prior to the Effective Date.

**1.70. Existing RGCH Interests** means the Interests in RGCH outstanding immediately prior to the Effective Date.

**1.71. Fee Claim** means a Claim by a Professional Person for compensation, indemnification or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503(b) or 1103(a) of the Bankruptcy Code in connection with the Chapter 11 Cases.

**1.72. Final Distribution Date** means the first Business Day 20 days (or such longer or shorter period as may be reasonably determined by the Debtors) after the date on which all Disputed Claims have been resolved by Final Order.

**1.73. Final DIP Order** means the Final Order: (i) Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Grant Senior Liens and Superpriority Administrative Expense Status; (ii) Approving Use of Cash Collateral of Prepetition Lender, (iii) Granting Adequate Protection to Prepetition Lender, Scheduling A Final Hearing Pursuant To Bankruptcy Rules 4001(B) and 4001(C) and (v) Granting Related Relief, entered August 11, 2009 and as may be amended, modified or supplemented by the Bankruptcy Court from time to time.

**1.74. Final Order** means an order, ruling or judgment of the Bankruptcy Court (or other court of competent jurisdiction) entered by the Clerk of the Bankruptcy Court on the docket in the Chapter 11 Cases (or by the clerk of such other court of competent jurisdiction on the docket of such court) that: (a) is in full force and effect; (b) is not stayed; and (c) is no longer subject to review, reversal, modification or amendment, by appeal or writ of certiorari; provided, however, that the possibility that a motion under Rule 50 or 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Civil Procedure or Bankruptcy Rules, may be filed relating to such order, ruling or judgment shall not cause such order, ruling or judgment not to be a Final Order.

**1.75. General Unsecured Claim** means any Claim other than: (a) a Secured Claim; (b) an Administrative Expense Claim; (c) a Fee Claim; (d) a Priority Tax Claim; (e) a Priority Non-Tax Claim; (f) an Intercompany Claim; and (g) a RGCH PIK Notes Claim; and shall not include: (i) Claims that are Disallowed or released, whether by operation of law or pursuant to order of the Bankruptcy Court, written release or settlement, the provisions of this Plan or otherwise; or (ii) any Assumed Liabilities.

**1.76. Greenville** means Greenville Tube Company, one of the Debtors.

**1.77. Greenville General Unsecured Claim** means a General Unsecured Claim against Greenville.

**1.78. Initial Distribution Date** means the first Business Day three (3) business days after the Effective Date, or such longer or shorter period as may be reasonably determined by the Debtors to make initial Distributions under the Plan.

**1.79. Intercompany Claim** means any Claim (including an Administrative Expense Claim), Cause of Action, or remedy asserted by a Debtor against another Debtor.



**1.80. *Interest*** means the interest (whether legal, equitable, contractual or other rights) of any holders of equity securities of, or profits interests in, any of the Debtors, whether or not certificated, transferable, voting or denominated “stock” or a similar security, and any Claim or Cause of Action related to or arising from the foregoing, or any option, warrant or right, contractual or otherwise, to acquire any such interest.

**1.81. *Interim DIP Order*** means the Interim Order: (i) Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Grant Senior Liens and Superpriority Administrative Expense Status; (ii) Approving Use of Cash Collateral of Prepetition Lender; (iii) Granting Adequate Protection to Prepetition Lender; (iv) Scheduling A Final Hearing Pursuant To Bankruptcy Rules 4001(B) and 4001(C); and (v) Granting Related Relief, entered July 14, 2009 and as may be amended, modified or supplemented by the Bankruptcy Court from time to time.

**1.82. *Interim Distribution Date*** means any date, other than the Final Distribution Date, after the Initial Distribution Date on which the Debtors determine, that an interim distribution should be made to or on account of holders of Allowed Claims and Allowed Interests, as applicable, in light of, *inter alia*, resolutions of Disputed Claims or Disputed Interests, as applicable, and the administrative costs of such a distribution.

**1.83. *IRB Claim*** means any Claim relating to the industrial development revenue bond in the original principal amount of \$2.0 million issued by Greenville Tube Company to the City of Clarksville, Arkansas, due December 30, 2014.

**1.84. *Lien*** has the meaning set forth in section 101(37) of the Bankruptcy Code.

**1.85. *Other Secured Claim*** means any Secured Claim, including an IRB Claim, against a Debtor other than a: (a) DIP Claim; (b) Prepetition Secured Credit Agreement Claim; or (c) Prepetition Secured Lender Guaranty Claim.

**1.86. *Person*** means any individual, corporation, partnership, association, indenture trustee, limited liability company, organization, joint stock company, joint venture, estate, trust, governmental unit or any political subdivision thereof, Interest holder, or any other entity or organization.

**1.87. *Petition Date*** means July 13, 2009, the date on which the Debtors commenced the Chapter 11 Cases.

**1.88. *Plan*** means this second amended joint chapter 11 plan proposed by the Debtors, including, without limitation, the exhibits, supplements, appendices and schedules hereto, either in its present form or as the same may be altered, amended or modified from time to time in accordance with the provisions of the Bankruptcy Code and the terms hereof or thereof.

**1.89. *Plan Administrator*** means such Person designated by the Debtors and approved by the Bankruptcy Court as Plan Administrator pursuant to Article VII of the Plan, or any Bankruptcy Court approved successor.

**1.90. *Plan Administrator Agreement*** means the agreement governing, among other things, the retention and duties of the Plan Administrator, as described in Section 7.6 of the Plan, which shall be in form and substance as contained in the Plan Supplement.

**1.91. *Plan Administrator Expenses*** means all actual and necessary costs and expenses incurred on and after the Effective Date in connection with the Wind Down and the administration of the Plan, including, but not limited to, the Debtors' costs, expenses and legal fees incurred related to: (i) filing and prosecuting objections to Claims; (ii) investigating, litigating, settling, negotiating, pursuing or otherwise associated with causes of action, including, but not limited to, attorneys' fees, accounting fees, expert witness fees, and all costs relating to obtaining and distributing recoveries from such causes of action; (iii) performing the duties set forth in Section 7.6 of the Plan and the Plan Administrator Agreement; and (iv) all fees payable pursuant to section 1930 of Title 28 of the United States Code.

**1.92. *Plan Consideration*** means, with respect to any Class of Claims and any Class of Interests entitled to a distribution under this Plan, Cash.

**1.93. *Plan Distribution*** means the payment or distribution under the Plan of the Plan Consideration.

**1.94. *Plan Documents*** means the documents, other than this Plan, to be executed, delivered, assumed, and/or performed in connection with the consummation of this Plan, including, without limitation, the documents to be included in the Plan Supplement, and the Schedule of Rejected Contracts and Leases.

**1.95. *Prepetition Ordinary Course of Business Trade Claims*** has the meaning set forth in Section 7.8 of this Plan.

**1.96. *Prepetition Ordinary Course of Business Trade Claims Bar Date*** means such deadline as established pursuant to Section 7.8 of this Plan and the Confirmation Order.

**1.97. *Plan Supplement*** means the supplemental appendix to this Plan, to be filed three (3) Business Days prior to the Voting Deadline, which will contain, among other things, draft forms or signed copies, as the case may be, of the Plan Documents; provided, that such supplemental appendix may be amended, supplemented or modified from time to time after the Voting Deadline in accordance with terms of the Bid Procedures Order and the Confirmation Order.

**1.98. *Prepetition Secured Agent*** means General Electric Capital Corporation, as administrative agent under the Prepetition Secured Credit Agreement.

**1.99. *Prepetition Secured Credit Agreement*** means that certain senior secured revolving credit agreement dated as of February 7, 2006, as amended, supplemented or otherwise modified from time to time, by and among RathGibson as borrower, RGCH and Greenville as guarantors, the lenders who are parties thereto, and the Prepetition Secured Agent, and including any and all documents and instruments executed in connection therewith.

**1.100. *Prepetition Secured Credit Agreement Claims*** means all Claims of the Prepetition Secured Lender and/or the Prepetition Secured Agent arising under the Prepetition Secured Credit Agreement against RathGibson, as borrower, and RGCH and Greenville as guarantors, together with all of the security and other documents related thereto.

**1.101. *Prepetition Secured Lender(s)*** means, individually or collectively, a lender under the Prepetition Secured Credit Agreement.

**1.102. *Prepetition Secured Lender Guaranty Claims*** means any Claims against Greenville and/or RGCH, as guarantors, arising under the Prepetition Secured Credit Agreement.

**1.103. *Priority Non-Tax Claim*** means any Claim, other than an Administrative Expense Claim, a Fee Claim and a Priority Tax Claim, entitled to priority in payment as specified in section 507(a) of the Bankruptcy Code.

**1.104. *Priority Tax Claim*** means any Claim of a governmental unit (as defined in section 101(27) of the Bankruptcy Code) of the kind entitled to priority in payment under sections 502(i) and 507(a)(8) of the Bankruptcy Code.

**1.105. *Professional Person(s)*** means all Persons retained by order of the Bankruptcy Court in connection with the Chapter 11 Cases, pursuant to sections 327, 328, 330 or 1103 of the Bankruptcy Code, excluding any ordinary course professionals retained pursuant to order of the Bankruptcy Court.

**1.106. *Pro Rata Share*** means, with respect to any distribution on account of an Allowed Claim or an Allowed Interest, a distribution equal in amount to the ratio (expressed as a percentage) that the amount of such Allowed Claim or Allowed Interest, as applicable, bears to the aggregate amount of all Allowed Claims or Allowed Interests, as applicable, in its Class.

**1.107. *Purchase Price*** has the meaning given to such term in the APA.

**1.108. *Purchased Assets*** has the meaning given to such term in the APA.

**1.109. *Purchaser*** means either: (i) the Stalking Horse Bidder; or (ii) such other Person that submits the highest or otherwise best bid for the Purchased Assets at the Auction in accordance with the Bid Procedures and with whom the Debtors consummate the APA.

**1.110. *Rath General Unsecured Claims*** means General Unsecured Claims against RathGibson.

**1.111. *RathGibson*** means RathGibson, Inc., one of the Debtors.

**1.112. *Released Parties*** means, collectively: (a) the Debtors and their respective affiliates; (b) each DIP Lender and the DIP Administrative Agent; (c) the Ad Hoc Senior Noteholders Committee and each of its members or affiliates; (d) the Prepetition Secured Agent, the Prepetition Secured Lender and their respective successors and assigns; (e) the Senior Notes Indenture Trustee; (f) the Creditors' Committee and each of its members; (g) the RGCH PIK Notes Agent; (h) those holders of RGCH PIK Notes who vote in favor of this Plan; (i) the

Purchaser; (j) the Backstop Equity Investors; (k) the Stalking Horse Bidder; and (l) each of the foregoing party's current officers, authorized persons, affiliates, partners, directors, employees, agents, members, advisors and professionals (including any attorneys, accountants, consultants, financial advisors, investment bankers and other professionals retained by such Persons), together with their respective successors and assigns, (a) - (l) each solely in its capacity as such; provided, however, that such attorneys and professional advisors shall only include those that provided services related to the Chapter 11 Cases and the transactions contemplated by this Plan; provided, further, however, that neither the Stalking Horse Bidder nor the Debtors shall be deemed to be a Released Party as against one another with respect to each such party's right to enforce the Stalking Horse Agreement (and all ancillary documents thereto) against the other party.

**1.113. *RGCH*** means RGCH Holdings Corp., one of the Debtors.

**1.114. *RGCH General Unsecured Claims*** means General Unsecured Claims against RGCH.

**1.115. *RGCH PIK Notes*** means the 13.5% payment-in-kind notes issued by RGCH pursuant to the RGCH PIK Notes Credit Agreement in the aggregate original principal amount of \$115.0 million.

**1.116. *RGCH PIK Notes Agent*** means Credit Suisse Cayman Islands Branch, solely in its capacity as administrative agent under the RGCH PIK Notes Credit Agreement, or any successor thereto in such capacity.

**1.117. *RGCH PIK Notes Agent Claims*** means all Claims of the RGCH PIK Notes Agent for reasonable documented fees and expenses under the terms of the RGCH PIK Notes Credit Agreement (including, but not limited to, the reasonable documented fees, costs and expenses incurred by the RGCH PIK Notes Agent's professionals and in connection with the distributions required under this Plan or the implementation of any provisions of this Plan), not to exceed \$25,000 in the aggregate.

**1.118. *RGCH PIK Notes Claims*** means all Claims against RGCH, as issuer, arising under or in connection with the RGCH PIK Notes and the RGCH PIK Notes Credit Agreement (and related documents).

**1.119. *RGCH PIK Notes Credit Agreement*** means that certain credit agreement, dated as of June 15, 2007, as amended, supplemented or otherwise modified from time to time, by and among RGCH, as borrower, the lenders parties thereto, and the RGCH PIK Notes Agent, and including any and all documents and instruments executed in connection therewith.

**1.120. *RG Tube*** means RG Tube Holdings LLC, one of the Debtors.

**1.121. *RG Tube Cash*** means all Cash held by RG Tube at Wells Fargo Bank, N.A. in account ending 5578.

**1.122. *RG Tube General Unsecured Claims*** means General Unsecured Claims against RG Tube.

**1.123. *Sale*** means the sale of the Purchased Assets under or in connection with the Plan and the APA.

**1.124. *Schedule of Rejected Contracts and Leases*** means the schedule of certain executory contracts and unexpired leases to be rejected by the Debtors pursuant to this Plan, a copy of which shall be annexed to the Plan Supplement, which schedule shall be filed by the Debtors with Bankruptcy Court within three (3) Business Days prior to the Bid Deadline (as defined in the Bid Procedures).

**1.125. *Secured Claim*** means a Claim, either as set forth in this Plan, as agreed to by the holder of such Claim and the Debtors or as determined by a Final Order in accordance with sections 506(a) and 1111(b) of the Bankruptcy Code: (a) that is secured by a valid, perfected and enforceable Lien on Collateral, to the extent of the value of the Claim holder's interest in such Collateral as of the Confirmation Date; or (b) to the extent that the holder thereof has a valid right of setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the amount subject to setoff.

**1.126. *Senior Notes*** mean the 11.25% Senior Notes due February 15, 2014 in the aggregate principal amount of approximately \$200 million as of the Petition Date, issued by RathGibson pursuant to the Senior Notes Indenture.

**1.127. *Senior Notes Claims*** means all Claims against RathGibson, as issuer, arising under the Senior Notes and the Senior Notes Indenture (and related documents).

**1.128. *Senior Notes Indenture*** means that certain indenture dated as of February 7, 2006, as supplemented on August 15, 2006 (and as further amended, modified or supplemented from time to time), between RathGibson, as issuer, Greenville, as guarantor and the Senior Notes Indenture Trustee, related to the Senior Notes, including all agreements, documents, notes, instruments and any other agreements delivered pursuant thereto or in connection therewith.

**1.129. *Senior Notes Indenture Trustee*** means The Bank of New York, solely in its capacity as indenture trustee under the Senior Notes Indenture, or any successor thereto solely in such capacity.

**1.130. *Senior Notes Indenture Trustee Claim*** means all Claims of the Senior Notes Indenture Trustee for reasonable documented fees and expenses under the terms of the Senior Notes Indenture (including, but not limited to, the reasonable documented fees, costs and expenses incurred by the Senior Notes Indenture Trustee's professionals), not to exceed \$50,000 in the aggregate.

**1.131. *Specified Matters*** means the APA and ancillary agreements thereto and the transactions contemplated in each such agreement, the Auction and Bid Procedures and all matters related thereto (including the assumption and assignment procedures set forth in Article X of this Plan), and all fees and expenses of the Purchaser as set forth in the APA.

**1.132. *Stalking Horse Agreement*** means that certain Asset Purchase Agreement, dated as of March 8, 2010 (as may be amended, modified, restated or supplemented from time to time) by and among the Debtors, as sellers, and the Stalking Horse Bidder, as buyer, which provides,

among other things, for the sale of the Purchased Assets. A copy of the Stalking Horse Agreement is annexed to the Disclosure Statement as Exhibit 4.

**1.133. *Stalking Horse Bidder*** means RathGibson Acquisition Co., LLC, a Delaware limited liability company.

**1.134. *Subsidiary*** means any corporation, association or other business entity of which at least the majority of the securities or other ownership interest is owned or controlled by a Debtor and/or one or more subsidiaries of the Debtor.

**1.135. *U.S. Trustee*** means the United States Trustee for the District of Delaware.

**1.136. *U.S. Trustee Fees*** means fees arising under 28 U.S.C. § 1930(a)(6) and, to the extent applicable, accrued interest thereon arising under 31 U.S.C. § 3717.

**1.137. *Voting Deadline*** means May 11, 2010, at 4:00 p.m. (prevailing Eastern time), or such later date and time as may be determined by the Debtors in accordance with the Bid Procedures Order or as otherwise determined by Bankruptcy Court.

**1.138. *Wind Down*** means the wind down of the Debtors in accordance with the Plan, as more fully set forth in Article VII herein.

**1.139. *Wind Down Account*** means the account to be established by the Debtors on or prior to the Effective Date to be used to effect the Wind Down, which account shall be funded in an amount determined by the Plan Administrator.

**1.140. *Wind Down Costs*** includes the fees and expenses incurred by the Debtors following the Effective Date (including reasonable fees and costs of attorneys and other professionals) for the purpose of: (i) resolving Disputed Claims, if any, and effectuating distributions to holders of Allowed Claims; (ii) otherwise implementing the Plan, the Wind Down and the closing of the Chapter 11 Cases; and (iii) undertaking such other matters relating to implementation of the Plan as are deemed necessary and appropriate by the Debtors.

**B. *Interpretation; Application of Definitions and Rules of Construction.***

Unless otherwise specified, all section or exhibit references in this Plan are to the respective section in, or exhibit to, this Plan. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to this Plan as a whole and not to any particular section, subsection, or clause contained therein. Whenever from the context it is appropriate, each term, whether stated in the singular or the plural, will include both the singular and the plural. Any term that is not otherwise defined herein, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable. Except for the rules of construction contained in sections 102(5) of the Bankruptcy Code, which shall not apply, the rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan. Any reference in this Plan to a contract, instrument, release, indenture, or other agreement or documents being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, and any reference in this

Plan to an existing document or exhibit filed or to be filed means such document or exhibit as it may have been or may be amended, modified, or supplemented. Subject to the provisions of any contract, certificates or articles of incorporation, by-laws, instruments, releases, or other agreements or documents entered into in connection with this Plan, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, federal law, including the Bankruptcy Code and Bankruptcy Rules. The captions and headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. Any reference to a Person as a holder of a Claim or Interest includes that Person's successors and assigns.

**C. *Appendices and Plan Documents.***

All Plan Documents and appendices to the Plan are incorporated into the Plan by reference and are a part of the Plan as if set forth in full herein. The documents contained in the exhibits and Plan Supplement shall be approved by the Bankruptcy Court pursuant to the Confirmation Order. Holders of Claims and Interests may inspect a copy of the Plan Documents, once filed, in the Office of the Clerk of the Bankruptcy Court during normal business hours, or [www.rathrestructuring.com](http://www.rathrestructuring.com), or obtain a copy of the Plan Documents by a written request sent to the following address:

RGI Bankruptcy Administration  
c/o The Garden City Group, Inc.  
PO Box 9396  
Dublin OH 43017-4296  
1.888.282.1244

**ARTICLE II.**

**RESOLUTION OF CERTAIN INTER-CREDITOR AND INTER-DEBTOR ISSUES**

**2.1. *Settlement of Certain Inter-Creditor Issues.***

The treatment of Claims and Interests under this Plan represents, among other things, the settlement and compromise of certain potential inter-creditor disputes.

**2.2. *Intercompany Claims.***

On the Effective Date, all Intercompany Claims (other than Intercompany Claims that constitute Purchased Assets or Assumed Liabilities and that are sold, transferred, assigned, conveyed or delivered by the applicable Debtor, pursuant to the terms of the APA) shall be eliminated by offset, the contribution or distribution of such Claims, or otherwise, including being settled pursuant to the terms of this Plan (as determined by the Debtors).

### ARTICLE III.

#### **ADMINISTRATIVE EXPENSE CLAIMS, FEE CLAIMS, U.S. TRUSTEE FEES AND PRIORITY TAX CLAIMS**

This Plan constitutes a separate chapter 11 plan for each of the Debtors. All Claims and Interests, except DIP Claims, Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims, are placed in the Classes set forth in Article IV below. In accordance with section 1123(a)(1) of the Bankruptcy Code, DIP Claims, Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims of the Debtors have not been classified, and the holders thereof are not entitled to vote on this Plan. A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes.

A Claim or Interest also is placed in a particular Class for all purposes, including voting, confirmation and distribution under this Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. However, a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to this Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date.

#### **3.1. *DIP Claims.***

In full satisfaction, settlement, release and discharge of the Allowed DIP Claims, on the Effective Date the holders of Allowed DIP Claims shall be paid in full in Cash. Notwithstanding anything to the contrary herein, the liens and security interests securing the DIP Claims shall continue in full force and effect until the DIP Claims have been paid in full in Cash.

#### **3.2. *Administrative Expense Claims.***

##### **(a) Time for Filing Administrative Expense Claims.**

The holder of an Administrative Expense Claim arising during the period after [\_\_\_\_], 2010, and through the Effective Date, other than the holder of:

- (i) a Fee Claim;
- (ii) an Administrative Expense Claim subject to the Administrative Expense Claim Bar Date Order;
- (iii) an Administrative Expense Claim that has been Allowed on or before the Effective Date;
- (iv) an Administrative Expense Claim for an expense or liability incurred and payable in the ordinary course of business by a Debtor;



- (v) an Administrative Expense Claim on account of fees and expenses incurred on or after the Petition Date by ordinary course professionals retained by the Debtors pursuant to an order of the Bankruptcy Court;
- (vi) an Administrative Expense Claim arising, in the ordinary course of business, out of the employment by one or more Debtors of an individual from and after the Petition Date, but only to the extent that such Administrative Expense Claim is solely for outstanding wages, commissions, accrued benefits, or reimbursement of business expenses;
- (vii) an Ad Hoc Senior Noteholders Committee Fee Claim;
- (viii) a Senior Notes Indenture Trustee Claim;
- (ix) a RGCH PIK Notes Agent Claim; and
- (x) an Ad Hoc RGCH PIK Noteholders Committee Fee Claim,

must file with the Bankruptcy Court and serve on the Debtors, the Claims Agent, the Creditors' Committee and the Office of the United States Trustee, proof of such Administrative Expense Claim **within thirty (30) days after the Effective Date**. Such proof of Administrative Expense Claim must include at a minimum: (i) the name of the applicable Debtor that is purported to be liable for the Administrative Expense Claim and if the Administrative Expense Claim is asserted against more than one Debtor, the exact amount asserted to be owed by each such Debtor; (ii) the name of the holder of the Administrative Expense Claim; (iii) the amount of the Administrative Expense Claim; (iv) the basis of the Administrative Expense Claim; and (v) supporting documentation for the Administrative Expense Claim. **FAILURE TO FILE AND SERVE SUCH PROOF OF ADMINISTRATIVE EXPENSE CLAIM TIMELY AND PROPERLY SHALL RESULT IN THE ADMINISTRATIVE EXPENSE CLAIM BEING FOREVER BARRED AND DISCHARGED.**

(b) Treatment of Administrative Expense Claims.

Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date an Administrative Expense Claim becomes an Allowed Claim, the holder of such Allowed Administrative Expense Claim shall receive from the applicable Debtor Cash in an amount equal to such Allowed Claim; provided, however, that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors, as debtors in possession, shall be paid by the applicable Debtor, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any orders or agreements governing, instruments evidencing, or other documents relating to, such liabilities; provided, further, however, that any Administrative Expense Claim that is an Assumed Liability shall be assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse

against the Debtors or the Plan Administrator or any of their property on account of such Administrative Expense Claim.

In the case of the Senior Notes Indenture Trustee Claims, such Claims will be paid in the ordinary course of business (subject to the Debtors' prior receipt of invoices and reasonable documentation in connection therewith and without the requirement to file a fee application with the Bankruptcy Court) but no later than the Effective Date; provided, that such fees, costs and expenses are reimbursable under the terms of the Senior Notes Indenture; and provided further, however, that the Senior Notes Indenture Trustee will receive payment in the ordinary course of business (subject to the Debtors' prior receipt of invoices and reasonable documentation in connection therewith) for all reasonable fees, costs, and expenses incurred after the Effective Date in connection with the distributions required pursuant to this Plan or the implementation of any provisions of this Plan.

In the case of the Ad Hoc Senior Noteholders Committee Fee Claims, such Claims will be paid in full in Cash on the Effective Date for all reasonable documented fees and expenses incurred up to the Effective Date, without the requirement to file a fee application with the Bankruptcy Court. In the event that the Debtors dispute all or a portion of the Ad Hoc Senior Noteholders Committee Fee Claims, the Debtors shall pay the undisputed amount of such Claims, and reserve the Cash allocable to the remaining portion of such Claims until such dispute is resolved by the parties or by the Bankruptcy Court.

In the case of the Ad Hoc RGCH PIK Noteholders Committee Fee Claims, such Claims will be paid in full in Cash on the later of the Effective Date and 14 days after receipt by the Debtors of invoices demonstrating reasonable documented fees and expenses, without the requirement to file a fee application with the Bankruptcy Court. In the event that the Debtors dispute all or a portion of the Ad Hoc RGCH PIK Noteholders Committee Fee Claims, the Debtors shall pay the undisputed amount of such Claims, and reserve the Cash allocable to the remaining portion of such Claims until such dispute is resolved by the parties or by the Bankruptcy Court.

In the case of the RGCH PIK Notes Agent Claims, such Claims will be paid in the ordinary course of business (subject to the Debtors' prior receipt of invoices demonstrating reasonable documented fees and expenses, and without the requirement to file a fee application with the Bankruptcy Court) on or as soon as reasonably practicable after the Effective Date; provided, that such fees, costs and expenses are reimbursable under the terms of the RGCH PIK Notes Credit Agreement.

### **3.3. *Fee Claims.***

#### **(a) Time for Filing Fee Claims.**

Any Professional Person seeking allowance by the Bankruptcy Court of a Fee Claim shall file its respective final application for allowance of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date no later than forty-five (45) days after the Effective Date. **FAILURE TO FILE AND SERVE SUCH FEE**

**APPLICATION TIMELY AND PROPERLY SHALL RESULT IN THE FEE CLAIM BEING FOREVER BARRED AND DISCHARGED.**

Objections to such Fee Claims, if any, must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than sixty-five (65) days after the Effective Date or such other date as established by the Bankruptcy Court; provided, however, that on the Effective Date, without the requirement to file a fee application with the Bankruptcy Court, the Debtors shall pay the Ad Hoc Senior Noteholders Committee Fee Claims, in accordance with Section 3.2(b) hereof, in full in Cash.

(b) Treatment of Fee Claims.

All Professional Persons seeking allowance by the Bankruptcy Court of a Fee Claim shall be paid in full in such amounts as are approved by the Bankruptcy Court: (i) upon the later of (x) the Effective Date, and (y) ten (10) calendar days after the date upon which the order relating to the allowance of any such Fee Claim is entered or (ii) upon such other terms as may be mutually agreed upon between the holder of such Fee Claim and the Debtors. On the Effective Date, to the extent known, the Debtors shall reserve and hold in a segregated account or shall place in escrow Cash in an amount equal to the accrued but unpaid Fee Claims as of the Effective Date, which Cash shall be disbursed solely to the holders of Allowed Fee Claims with the remainder to be reserved until all Allowed Fee Claims have been paid in full or all remaining Fee Claims have been Disallowed by Final Order, at which time any remaining Cash in the segregated account shall become the sole and exclusive property of the Debtors to be distributed in accordance with the terms of this Plan.

**3.4. U.S. Trustee Fees.**

Each of the Debtors shall pay all outstanding U.S. Trustee Fees of such Debtor on an ongoing basis on the later of: (i) the Effective Date; and (ii) the date such U.S. Trustee Fees become due, until such time as a final decree is entered closing the applicable Chapter 11 Case or the applicable Chapter 11 Case is converted or dismissed, or the Bankruptcy Court orders otherwise.

**3.5. Priority Tax Claims.**

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to different treatment, each holder of an Allowed Priority Tax Claim shall receive, in the applicable Debtors' discretion, either: (i) on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date a Priority Tax Claim becomes an Allowed Claim, Cash in an amount equal to such Claim, or (ii) deferred Cash payments following the Effective Date, over a period ending not later than five (5) years after the Petition Date, in an aggregate amount equal to the Allowed amount of such Priority Tax Claim (with any interest to which the holder of such Priority Tax Claim may be entitled calculated in accordance with section 511 of the Bankruptcy Code); provided, however, that all Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business as they become due; provided, further, however, that any Priority Tax Claim that is an Assumed Liability shall be

assumed by the Purchaser and the Purchaser shall be responsible therefor in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Priority Tax Claim.

**ARTICLE IV.**

**CLASSIFICATION OF CLAIMS AND INTERESTS**

**4.1. Classification of Claims and Interests.**

The following table designates the Classes of Claims against and Interests in the Debtors, and specifies which Classes are: (i) impaired or unimpaired by this Plan; (ii) entitled to vote to accept or reject this Plan in accordance with section 1126 of the Bankruptcy Code; and (iii) deemed to accept or reject this Plan.

| Class              | Designation                                 | Impairment | Entitled to Vote       |
|--------------------|---|------------|------------------------|
| <i>All Debtors</i> |   |            |                        |
| Class 1            | Priority Non-Tax Claims                     | No         | No (Deemed to accept)  |
| Class 2            | Other Secured Claims                        | No         | No (Deemed to accept)  |
| <i>RathGibson</i>  |   |            |                        |
| Class 3(a)         | Prepetition Secured Credit Agreement Claims | No         | No (Deemed to accept)  |
| Class 3(b)         | Rath General Unsecured Claims               | Yes        | Yes                    |
| Class 3(c)         | Existing Rath Interests                     | Yes        | No (Deemed to accept)* |
| <i>Greenville</i>  |   |            |                        |
| Class 4(a)         | Greenville General Unsecured Claims         | Yes        | Yes                    |
| Class 4(b)         | Existing Greenville Interests               | Yes        | No (Deemed to accept)* |
| <i>RGCH</i>        |   |            |                        |
| Class 5(a)         | RGCH PIK Notes Claims                       | Yes        | Yes                    |
| Class 5(b)         | RGCH General Unsecured Claims               | Yes        | Yes                    |
| Class 5(c)         | Existing RGCH Interests                     | Yes        | No (Deemed to accept)* |
| <i>RG Tube</i>     |   |            |                        |
| Class 6(a)         | RG Tube General Unsecured Claims            | Yes        | Yes                    |
| Class 6(b)         | Existing RG Tube Interests                  | Yes        | Yes                    |

\* See section 4.3(b) *infra*.

#### **4.2. *Unimpaired Classes of Claims.***

The following Classes of Claims are unimpaired and, therefore, deemed to have accepted this Plan and are not entitled to vote on this Plan under section 1126(f) of the Bankruptcy Code.

- (a) Class 1: Class 1 consists of all Priority Non-Tax Claims.
- (b) Class 2: Class 2 consists of all Other Secured Claims.
- (c) Class 3(a): Class 3(a) consists of all Prepetition Secured Credit Agreement Claims.

#### **4.3. *Impaired Classes of Claims and Interests.***

Plan: (a) The following Classes of Claims are impaired and entitled to vote on this

- (i) Class 3(b): Class 3(b) consists of all Rath General Unsecured Claims.
- (ii) Class 4(a): Class 4(a) consists of all Greenville General Unsecured Claims.
- (iii) Class 5(a): Class 5(a) consists of all RGCH PIK Notes Claims.
- (iv) Class 5(b): Class 5(b) consists of all RGCH General Unsecured Claims.
- (v) Class 6(b): Class 6(b) consists of all Existing RG Tube Interests.
- (vi) Class 6(a): Class 6(a) consists of all RG Tube General Unsecured Claims.

(b) The following Classes of Interests are impaired, but because the holders of such Interests are Plan proponents and, thus, have consented to the filing of this Plan and the approval of the treatment afforded to such holders, such Classes are deemed to have accepted this Plan:

- (i) Class 3(c): Class 3(c) consists of all Existing Rath Interests.
- (ii) Class 4(b): Class 4(b) consists of all Existing Greenville Interests.
- (iii) Class 5(c): Class 5(c) consists of all Existing RGCH Interests.

#### **4.4. *Separate Classification of Other Secured Claims.***

Although all Other Secured Claims have been placed in one Class for purposes of nomenclature, each Other Secured Claim, to the extent secured by a Lien on Collateral different

than that securing any other Other Secured Claims, shall be treated as being in a separate sub-Class for the purpose of receiving Plan Distributions.

## ARTICLE V.

### TREATMENT OF CLAIMS AND INTERESTS

#### 5.1. *Priority Non-Tax Claims (Class 1).*

(a) Treatment: The legal, equitable and contractual rights of the holders of Class 1 Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to different treatment and after the date a Priority Non-Tax Claim becomes an Allowed Claim, on, or as soon thereafter as is reasonably practicable, the Initial Distribution Date, the holder of such Allowed Priority Non-Tax Claim shall receive Cash from the applicable Debtor in an amount equal to such Claim; provided, however, that any Priority Non-Tax Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Priority Non-Tax Claim.

(b) Voting: Priority Non-Tax Claims are not impaired Claims. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Priority Non-Tax Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Allowed Priority Non-Tax Claims.

#### 5.2. *Other Secured Claims (Class 2).*

(a) Treatment: The legal, equitable and contractual rights of the holders of Class 2 Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different treatment and after the date an Other Secured Claim becomes an Allowed Claim, on, or as soon thereafter as is reasonably practicable, the Initial Distribution Date, each holder of such Allowed Other Secured Claim shall receive, at the election of the Debtors: (i) Cash in an amount equal to such Allowed Claim; (ii) such other treatment that will render the Other Secured Claim unimpaired pursuant to section 1124 of the Bankruptcy Code; or (iii) the return of property securing such Allowed Other Secured Claim; provided, however, that Class 2 Claims incurred by a Debtor in the ordinary course of business may be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto, in the discretion of the applicable Debtor, without further notice to or order of the Bankruptcy Court; provided, further, however, that any Other Secured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Other Secured Claim. Each holder of an Allowed Other Secured Claim shall retain the Liens securing its Allowed Other Secured Claim as of the Effective Date until full and final payment or other satisfaction of such Allowed Other Secured Claim is made as provided herein. On the full payment or other satisfaction of such Claims in accordance with the Plan, the Liens securing

such Allowed Other Secured Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person.

(b) Voting: Other Secured Claims are not impaired Claims. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Other Secured Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Allowed Other Secured Claims.

(c) Deficiency Claims: To the extent that the value of the Collateral securing each Allowed Other Secured Claim is less than the amount of such Allowed Other Secured Claim, the undersecured portion of such Allowed Other Secured Claim shall be treated for all purposes under this Plan as an Allowed General Unsecured Claim and shall be classified as a General Unsecured Claim against the applicable Debtor.

### **5.3. *Prepetition Secured Credit Agreement Claims (Class 3(a)).***

(a) Allowance: Except to the extent that the Prepetition Secured Credit Agreement Claims of the Prepetition Secured Lender and the Prepetition Secured Agent are otherwise paid prior to the Effective Date, such Prepetition Secured Credit Agreement Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person, in an aggregate amount equal to (i) \$52,747,405.02, plus (ii) any accrued and unpaid interest at the non-default contract rate under the Prepetition Secured Credit Agreement as of the Effective Date, except to the extent such interest is otherwise provided herein to be paid or satisfied, plus (iii) unpaid professional fees and expenses, as provided for in the Prepetition Secured Credit Agreement and the DIP Orders, plus (iv) all other Obligations (as defined in the Prepetition Secured Credit Agreement); provided that, with respect to 5.3(a)(iii) and (iv), the Prepetition Secured Agent must provide a written notice to the Debtors (with a copy to counsel for the Debtors) of any such unpaid professional fees and expenses and unpaid Obligations no later than two days prior to the Effective Date. In the event the Debtors dispute any such professional fees, expenses or Obligations, the Debtors shall pay the undisputed amount of such professional fees, expenses or Obligations, and segregate the remaining portion of such professional fees, expenses or Obligations until such dispute is resolved by the parties or by the Bankruptcy Court.

(b) Treatment: To the extent not already paid in full prior to the Effective Date pursuant to the terms of DIP Orders or otherwise, on the Effective Date, or as soon as practicable thereafter, the Allowed Prepetition Secured Credit Agreement Claims shall be paid in full, in Cash, in complete and final satisfaction, settlement, release, and discharge of, and in exchange for such Allowed Claims.

(c) Voting: Prepetition Secured Credit Agreement Claims are not impaired Claims. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Prepetition

Secured Credit Agreement Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Allowed Prepetition Secured Credit Agreement Claims.

**5.4. *Rath General Unsecured Claims (Class 3(b)).***

(a) Treatment: Except to the extent that a holder of an Allowed Rath General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of five (5) Business Days after the Prepetition Ordinary Course of Business Trade Claims Bar Date and the next Interim Distribution Date immediately following the date that a Rath General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed Rath General Unsecured Claim shall receive its Pro Rata Share of the Class 3(b) Distribution; provided, however, that any Rath General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Allowed Rath General Unsecured Claim.

(b) Voting: Rath General Unsecured Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan and the votes of such holders will be solicited with respect to such Rath General Unsecured Claims.

**5.5. *Existing Rath Interests (Class 3(c)).***

(a) Treatment: Existing Rath Interests shall be cancelled and holders of Existing Rath Interests shall not be entitled to any distribution under the Plan.

(b) Voting: Existing Rath Interests are impaired Interests. However, as the holders of Existing Rath Interests are Plan proponents and, thus, have consented to the filing of this Plan and the approval of the treatment afforded to such holders of Interests hereunder, such holders are deemed to accept the Plan and the votes of such holders will not be solicited with respect to such Existing Rath Interests.

**5.6. *Greenville General Unsecured Claims (Class 4(a)).***

(a) Treatment: Except to the extent that a holder of an Allowed Greenville General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of five (5) Business Days after the Prepetition Ordinary Course of Business Trade Claims Bar Date and the next Interim Distribution Date immediately following the date that a Greenville General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed Greenville General Unsecured Claim shall receive its Pro Rata Share of the Class 4(a) Distribution; provided, however, that any Greenville General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such Allowed Greenville General Unsecured Claim.



(b) Voting: Greenville General Unsecured Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan and the votes of such holders will be solicited with respect to such Greenville General Unsecured Claims.

**5.7. Existing Greenville Interests (Class 4(b)).**

(a) Treatment: Existing Greenville Interests shall be cancelled and holders of Existing Greenville Interests shall not be entitled to any distribution under the Plan.

(b) Voting: Existing Greenville Interests are impaired Interests. However, as the holders of Existing Greenville Interests are Plan proponents and, thus, have consented to the filing of this Plan and the approval of the treatment afforded to such holders of such Interests hereunder, such holders are deemed to accept the Plan and the votes of such holders will not be solicited with respect to such Existing Greenville Interests.

**5.8. RGCH PIK Notes Claims (Class 5(a)).**

(a) Treatment: As part of the settlements and compromises contained in this Plan, the RGCH PIK Notes Claims shall be deemed Allowed Claims against RGCH as of the Effective Date and, on the first Business Day after the Effective Date, or as soon thereafter as reasonably practicable, each holder of an Allowed RGCH PIK Notes Claim shall receive, subject to the terms of this Plan and in full satisfaction, settlement, release and discharge of, and in exchange for, such Claim its Pro Rata Share of the Class 5(a) Distribution; provided, however, that Allowed RGCH PIK Notes Claims shall not receive or retain any distribution under the Plan on account of their RGCH PIK Notes Claims if Class 5(a) does not vote to accept the Plan.

(b) Voting: The RGCH PIK Notes Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Allowed RGCH PIK Notes Claims.

**5.9. RGCH General Unsecured Claims (Class 5(b)).**

(a) Treatment: Except to the extent that a holder of an Allowed RGCH General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the next Interim Distribution Date immediately following the date that a RGCH General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed RGCH General Unsecured Claim shall receive its Pro Rata Share of the Class 5(b) Distribution; provided, however, that any RGCH General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such RGCH General Unsecured Claim.

(b) Voting: RGCH General Unsecured Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan and the votes of such holders will be solicited with respect to such RGCH General Unsecured Claims.

**5.10. Existing RGCH Interests (Class 5(c)).**

(a) Treatment: Existing RGCH Interests shall be cancelled and holders of Existing RGCH Interests shall not be entitled to any distribution under the Plan.

(b) Voting: Existing RGCH Interests are impaired Interests. However, as the holders of Existing RGCH Interests are Plan proponents and, thus, have consented to the filing of this Plan and the approval of the treatment afforded to such holders of such Interests hereunder, such holders are deemed to accept the Plan and the votes of such holders will not be solicited with respect to such Existing RGCH Interests.

**5.11. RG Tube General Unsecured Claims (Class 6(a)).**

(a) Treatment: Except to the extent that a holder of an Allowed RG Tube General Unsecured Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the next Interim Distribution Date immediately following the date that a RG Tube General Unsecured Claim becomes an Allowed Claim, the holder of such Allowed RG Tube General Unsecured Claim shall receive its Pro Rata Share of the Class 6(a) Distribution; provided, however, that any RG Tube General Unsecured Claim that is an Assumed Liability shall be assumed by the Purchaser, and the Purchaser shall be responsible therefor, in accordance with the terms of the APA and the holder thereof shall have no recourse against the Debtors or the Plan Administrator or any of their property on account of such RG Tube General Unsecured Claim.

(b) Voting: RG Tube General Unsecured Claims are impaired Claims. Holders of RG Tube General Unsecured Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Allowed RG Tube General Unsecured Claims.

**5.12. Existing RG Tube Interests (Class 6(b)).**

(a) Treatment: As part of the settlements and compromises contained herein, each holder of an Allowed Existing RG Tube Interest shall receive, subject to the terms of this Plan and in full satisfaction, settlement, release and discharge of, and in exchange for, such Allowed Existing RG Tube Interest, its Pro Rata Share of the Class 6(b) Distribution.

(b) Voting: Existing RG Tube Interests are impaired Interests. Holders of such Interests are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Allowed Existing RG Tube Interests.

## ARTICLE VI.

### **ACCEPTANCE OR REJECTION OF THE PLAN; EFFECT OF REJECTION BY ONE OR MORE CLASSES OF CLAIMS OR INTERESTS**

#### **6.1. *Class Acceptance Requirement.***

(a) A Class of Claims shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount of the Allowed Claims in such Class and more than one-half (1/2) in number of holders of such Claims that have voted on the Plan.

(b) A Class of Interests shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount of the Allowed Interests in such Class that have voted on the Plan.

#### **6.2. *Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code or "Cramdown."***

If any Classes vote to reject this Plan, the Debtors intend to request confirmation of this Plan, as it may be modified and amended from time to time, under section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan or any Plan Document, as to any and all Debtors, in order to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary.

#### **6.3. *Elimination of Vacant Classes.***

Any Class of Claims or Interests that does not have a holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

#### **6.4. *Voting Classes; Deemed Acceptance by Non-Voting Classes.***

If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the Plan shall be deemed accepted by the holders of such Claims or Interests in such Class.

## ARTICLE VII.

### **MEANS FOR IMPLEMENTATION**

#### **7.1. *Sale of the Purchased Assets.***

(a) Upon entry of the Confirmation Order, the Debtors shall be authorized to, among other things, sell, assume, assign and/or transfer the Purchased Assets pursuant to sections 105(a), 363, 365, 1123(b)(4), 1129 and 1146(a) of the Bankruptcy Code under the terms

and conditions of the APA, and shall be authorized to take any and all actions necessary to consummate the Sale. Any such Sale shall be entered into in accordance all applicable orders of the Bankruptcy Court. The actions necessary to effect the sale of the Purchased Assets may include: (i) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, duty or obligation on terms consistent with the terms of the APA and the Plan and having such other terms to which the Debtors and the Purchaser may agree, and (ii) all other actions that the Debtors and the Purchaser determine to be necessary or appropriate in connection with such transactions, including making such filings or recordings that may be required by or appropriate under applicable state law.

(b) The solicitation of votes on the Plan in accordance with the order approving the Disclosure Statement shall be deemed to be a solicitation of the holders of Claims and Interests for the approval of the APA and the Sale. Entry of the Confirmation Order shall constitute approval of any agreements and transactions related to the Sale.

### **7.2. *Plan Funding.***

(a) The Debtors' obligations under the Plan and the fees and expenses of the Debtors will be funded out of the proceeds from the Sale. Proceeds from the Sale shall be used as follows: (i) first, to satisfy Allowed DIP Claims, Allowed Administrative Expense Claims, Allowed Fee Claims, U.S. Trustee Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims and Allowed Other Secured Claims; (ii) second, to fund the Wind Down Account; and (iii) third, to satisfy the Debtors' other obligations under this Plan, in accordance with the terms hereof. To the extent that amounts deposited in the Wind Down Account are insufficient, the Debtors may withdraw Cash from the Claims reserves for unsecured claims established by the Plan Administrator as set forth herein.

(b) Except as provided in Section 7.2(a)(i) and (a)(ii) of this Plan, RGCH's and RG Tube's obligations under the Plan and the fees and expenses of such Debtors will be funded solely from the RG Tube Cash in accordance with the terms of this Plan.

### **7.3. *Continued Corporate Existence and Vesting of Assets.***

(a) Except as otherwise provided in this Plan, the Debtors will continue to exist after the Effective Date as separate corporate entities, in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized, for the purposes of satisfying their obligations under the Plan, including making distributions as required under the Plan and effectuating the Wind Down. On or after the Effective Date, each Debtor, in its sole and exclusive discretion, may take such action as permitted by applicable law as such Debtor may determine is reasonable and appropriate, including, but not limited to, causing: (i) a Debtor to be merged into another Debtor, or its Subsidiary or affiliate; (ii) a Debtor to be dissolved; (iii) the legal name of a Debtor to be changed; or (iv) the closing of a Debtor's case on the Effective Date or any time thereafter.

(b) On and after the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, and except as otherwise provided in this Plan or in the Confirmation Order, all property of the Debtors' Estates, including all claims, rights and Causes of Action (but

excluding, for the avoidance of doubt, any Purchased Asset other than a Nonassignable Asset (as defined in the APA), shall vest in each respective Debtor free and clear of all Claims, Liens, charges, other encumbrances and Interests (other than, with respect to any of the Nonassignable Assets, any Liens, charges or other encumbrances created under the APA). Subject to Section 7.3(a) hereof, on and after the Effective Date, the Debtors may effectuate the Wind Down of the Estates, including payment of all Wind Down Costs, and may use, acquire and dispose of property and prosecute, compromise or settle any Claims (including any Administrative Expense Claims) and Causes of Action (in each case that are not Purchased Assets or Assumed Liabilities) without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules other than restrictions expressly imposed by this Plan or the Confirmation Order. Without limiting the foregoing, the Debtors may pay the charges that they incur on or after the Effective Date for Professional Persons' fees, disbursements, expenses or related support services without application to the Bankruptcy Court. Notwithstanding anything contained herein or in the APA to the contrary, the Debtors shall not be required to delay or otherwise alter the completion of the Wind Down.

#### **7.4. *Cancellation of Credit Agreements, Existing Securities and Agreements.***

Except for the purpose of evidencing a right to distribution under this Plan, and except as otherwise set forth herein, on the Effective Date all agreements, instruments, and other documents evidencing any Claim against or Interest in a Debtor and any rights of any holder in respect thereof, shall be deemed cancelled, discharged and of no force or effect.

Notwithstanding the foregoing, pursuant to the settlements and compromises set forth herein:

(i) the Senior Notes Indenture shall continue in effect to the extent necessary to allow the Debtors and the Senior Notes Indenture Trustee and/or the Disbursing Agent to make distributions pursuant to this Plan on account of Allowed Rath General Unsecured Claims that are Allowed Senior Notes Claims, and the Senior Notes Indenture Trustee shall maintain any charging lien such Senior Notes Indenture Trustee may have for any fees, costs and expenses under the Senior Notes Indenture or other agreements until all such fees, costs, and expenses are paid pursuant to the Plan or otherwise; provided, however, that such rights and liens are limited to the distributions, if any, to the holders of Senior Notes; and (ii) the applicable provisions of the RGCH PIK Notes Credit Agreement shall continue in effect solely for the purposes of permitting the RGCH PIK Notes Agent and/or the Disbursing Agent to make distributions pursuant to this Plan on account of Allowed RGCH PIK Notes Claims, and the RGCH PIK Notes Agent shall maintain any charging lien such RGCH PIK Notes Agent may have for any fees, costs and expenses under the RGCH PIK Notes Credit Agreement or other agreements until all such fees, costs, and expenses are paid pursuant to this Plan or otherwise. The holders of or parties to such cancelled instruments, securities and other documentation will have no rights arising from or relating to such instruments, securities and other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan. Except as provided pursuant to this Plan, the Senior Notes Indenture Trustee and the RGCH PIK Notes Agent and each of their respective agents, successors and assigns shall be discharged of all of their obligations associated with the Senior Notes and the RGCH PIK Notes, as applicable.

#### **7.5. *Corporate Governance.***

From and after the Effective Date, each of the Debtors shall be managed and administered through the Plan Administrator, who shall be appointed the sole officer of each of the Debtors and shall have full authority to administer the provisions of the Plan. The Plan Administrator may employ one or more Persons to assist it with performing its duties under the Plan.

**7.6. Plan Administrator.**

(a) *Appointment; Duties.* Not less than ten (10) days prior to the commencement of the Confirmation Hearing and subject to Bankruptcy Court approval in connection with confirmation of the Plan, the Debtors, in consultation with the Committee, shall designate the person who initially will serve as the Plan Administrator; provided, however, that: (i) the Debtors shall have the right at any time prior to the Effective Date to remove the Plan Administrator without cause; and (ii) the Plan Administrator shall be subject to removal by the Bankruptcy Court for cause shown at any time. On or after the Confirmation Date but prior to the Effective Date, the Plan Administrator shall assume all of its obligations, powers and authority under the Plan to: (i) establish bank accounts as may be required to fulfill the Debtors' obligations under this Plan; and (ii) exercise such other power and authority as may be set forth in the Confirmation Order (collectively, the "Pre-Effective Date PA Duties"). On the Effective Date, the Plan Administrator shall assume all of its other obligations, powers and authority under the Plan.

(b) *Qualifications; Plan Administrator Agreement.*

(i) *Plan Administrator as Fiduciary.* The Plan Administrator shall be a fiduciary of each of the Debtors and the Estates, shall have such qualifications and experience as are sufficient to enable the Plan Administrator to perform its obligations under this Plan and under the Plan Administrator Agreement, and shall be compensated and reimbursed for expenses as set forth in, and in accordance with, the Plan Administrator Agreement. To the extent necessary, following the Effective Date, the Plan Administrator shall be deemed to be a judicial substitute for the Debtors as the party-in-interest in the Chapter 11 Cases, under the Plan or in any judicial proceeding or appeal to which the Debtors are a party, consistent with section 1123(b)(3)(B) of the Bankruptcy Code.

The Plan Administrator shall not be liable for any action it takes or omits to take that it believes in good faith to be authorized or within its rights or powers unless it is ultimately and finally determined by a court of competent jurisdiction that such action or inaction was the result of fraud, gross negligence or willful misconduct.

(ii) *Provisions of Agreement and Order.* The Plan Administrator Agreement and the Confirmation Order shall provide that: (i) the Plan Administrator shall be a fiduciary of each of the Debtors and

the Estates; (ii) neither the Debtors (except as expressly set forth in the Plan Administrator Agreement) nor their respective boards of directors, managements, employees and professionals shall have any liability for any action taken or omitted to be taken by the Plan Administrator in performing the Pre-Effective Date PA Duties and all Persons are enjoined from pursuing any Claims against the foregoing pursuant to this Plan on account of any such action taken or omitted to be taken); (iii) any determinations made by the Plan Administrator with respect to the establishment of reserves under this Plan shall not be binding on any party if the Effective Date fails to occur; and (iv) if the Plan is withdrawn or otherwise abandoned prior to the occurrence of the Effective Date, the Plan Administrator position shall thereafter be dissolved.

(c) *Debtors Stock.* On the Effective Date, a single share of stock shall be issued by each Debtor to the Plan Administrator.

(d) *Disputed Reserves.* On the Effective Date, the Debtors shall transfer to the Plan Administrator all assets held in each of the reserves being held by Debtors, including reserves for Disputed Claims, if any, and the Plan Administrator shall establish such reserves, holdbacks and funds as may be required by the Plan.

(e) *Resignation, Death or Removal.* The Plan Administrator may be removed by the Bankruptcy Court upon application for good cause shown. In the event of the resignation or removal, liquidation, dissolution, death or incapacity of the Plan Administrator, the Bankruptcy Court shall designate another Person to become Plan Administrator and thereupon the successor Plan Administrator, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of its predecessor.

(f) *Wind Down Funds.* The Plan Administrator shall establish the Wind Down Account and any excess funds remaining after effecting the Wind Down shall be distributed in accordance with the terms of this Plan.

#### **7.7. *Wind Down of the Debtors' Estates.***

(a) The Plan Administrator shall oversee the Wind Down and shall make distributions to, and otherwise hold all property of the Estates for the benefit of, holders of Allowed Claims and Allowed Interests consistent and in accordance with the Plan and the Confirmation Order. The Debtors (including the Plan Administrator as the sole shareholder of the Debtors) shall not be required to post a bond in favor of the United States.

(b) As set forth in the Plan Administrator Agreement, the Plan Administrator shall have the power and authority to perform the following acts, in addition to any powers granted by law or conferred by any other provision of the Plan and orders of the Bankruptcy Court: (i) take all steps and execute all instruments and documents necessary to make distributions to holders of Allowed Claims and Allowed Interests; (ii) object to Claims as provided in this Plan and prosecute such objections; (iii) resolve, compromise and/or settle any

objections to the amount, validity, priority, treatment, allowance or priority of Claims, Administrative Expenses, or Interests; (iv) comply with this Plan and the obligations hereunder; (v) if necessary, employ, retain, or replace professionals to represent it with respect to its responsibilities; (vi) establish, replenish or release reserves as provided in this Plan, as applicable; (vii) take all actions necessary or appropriate to enforce the Debtors' rights under the APA and any related document and to fulfill, comply with or otherwise satisfy the Debtors' covenants, agreements and obligations under the APA and any related document; (viii) make all determinations on behalf of the Debtors under the APA; (ix) prepare and file applicable tax returns for any of the Debtors; (x) liquidate any of the Excluded Assets; (xi) deposit Estate funds, draw checks and make disbursements consistent with the terms of this Plan; (xii) purchase or continue insurance protecting the Debtors, the Plan Administrator and property of the Estates; (xiii) seek entry of a final decree in any of the Chapter 11 Cases at the appropriate time; (xiv) prosecute, resolve, compromise and/or settle any litigation; (xv) abandon in any commercially reasonable manner, including abandonment or donation to a charitable organization (as such term is described in Internal Revenue Code section 501(c)(3) (whose contributions are deductible under Internal Revenue Code section 170)) of the Plan Administrator's choice, any Estate assets that are of no material benefit, including distributable Cash hereunder; and (xvi) take such other action as the Plan Administrator may determine to be necessary or desirable to carry out the purpose of this Plan.

(c) Following the Effective Date, the Debtors shall not engage in any business activities or take any actions, except those necessary to effectuate the Plan, the Wind Down and the compliance with its obligations under the APA. On and after the Effective Date, the Plan Administrator may, in the name of the Debtors, take such action and settle and compromise Claims or Interests without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than any restrictions expressly imposed by the Plan or the Confirmation Order.

#### **7.8. Bar Date for Prepetition Ordinary Course Trade Claims.**

Any trade vendor, supplier, or other Person who asserts a Claim related to or arising from goods or services provided to the Debtors in the ordinary course of business (but excluding any claims related to or arising from litigation against the Debtors, litigation-related claims, severance claims, or rejection or termination of an agreement with the Debtors, each of which was required to file Claims as set forth in the Bar Date Order) ("**Prepetition Ordinary Course of Business Trade Claims**") arising prior to the Petition Date must file with the Bankruptcy Court and serve on the Debtors, the Claims Agent, the Creditors' Committee and the Office of the United States Trustee, proof of such Prepetition Ordinary Course of Business Trade Claim **within thirty (30) days after the Effective Date (the "Prepetition Ordinary Course of Business Trade Claims Bar Date")**. Such proof of Prepetition Ordinary Course of Business Trade Claim must include at a minimum: (i) the name of the applicable Debtor that is purported to be liable for the Claim and if the Claim is asserted against more than one Debtor, the exact amount asserted to be owed by each such Debtor; (ii) the name of the holder of the Claim; (iii) the amount of the Claim; (iv) the basis of the Claim; and (v) supporting documentation for the Claim. **FAILURE TO FILE AND SERVE SUCH PROOF OF SUCH CLAIM TIMELY AND PROPERLY SHALL RESULT IN THE CLAIM BEING FOREVER BARRED AND DISCHARGED AND THE HOLDER OF SUCH CLAIM SHALL NOT BE ENTITLED**



**TO RECEIVE ANY DISTRIBUTION FROM THE DEBTORS OR UNDER THIS PLAN ON ACCOUNT OF SUCH CLAIM.** The following Persons are **not** required to file a proof of such Prepetition Ordinary Course of Business Trade Claim on or before the thirty (30) days after the Effective Date:

- (i) Any Person whose Prepetition Ordinary Course of Business Trade Claim has been paid as of such date;
- (ii) Any Person whose Prepetition Ordinary Course of Business Trade Claim is an Assumed Liability;
- (iii) Any Person that already has properly filed a proof of Claim against one or more of the Debtors on account of such Prepetition Ordinary Course of Business Trade Claim with either The Garden City Group, the Bankruptcy Court-appointed claims agent in the Chapter 11 Cases, or the Clerk of the Bankruptcy Court
- (iv) Any Person: (i) whose Prepetition Ordinary Course of Business Trade Claim is listed in the applicable Debtors' Schedules of Assets and Liabilities (the "**Schedules**") filed with the Bankruptcy Court or any amendments thereto, and (ii) whose Prepetition Ordinary Course of Business Trade Claim is not described therein as "disputed," "contingent," or "unliquidated," and (iii) who does not dispute the amount or classification of its Prepetition Ordinary Course of Business Trade Claim as set forth in the Schedules;

**7.9. *Assumed Liabilities.***

In accordance with the terms of the APA, on the Effective Date, the Purchaser shall be responsible for payment and satisfaction of all Assumed Liabilities. All Persons holding Claims and Interests arising out of or concerning an Assumed Liability, shall be forever barred, estopped and permanently enjoined from asserting against the Debtors or the Plan Administrator and any of their property, such Persons' Claims or Interests (as applicable) arising out of or concerning such Assumed Liabilities. The Purchaser is not assuming, and shall not become liable for the payment or performance of, any liabilities or other obligations of any of the Debtors of any nature whatsoever, whether accrued or unaccrued, other than the Assumed Liabilities.

**7.10. *Cancellation of Certain Existing Security Interests.***

Upon the full payment or other satisfaction of an Allowed Other Secured Claim, or promptly thereafter, the holder of such Allowed Other Secured Claim shall deliver to the Debtors any Collateral or other property of the Debtors held by such holder, and any termination statements, instruments of satisfactions, or releases of all security interests with respect to its Allowed Other Secured Claim that may be reasonably required in order to terminate any related financing statements, mortgages, mechanic's liens, or lis pendens; provided, however, any such Collateral that is a Purchased Asset received by the Debtors from the holder of such Allowed Claim shall be delivered promptly to the Purchaser.

### **7.11. *Officers and Boards of Directors.***

(a) *Officers.* The officers of the Debtors immediately prior to the Effective Date, in their capacities as such, shall be deemed removed from such positions as of the Effective Date and each such officer that is an employee of the Debtors shall be offered employment with the Purchaser as and to the extent set forth in the APA.

(b) *Boards of Directors.* The members of the board of directors or board of managers of each Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations to the Debtors on or after the Effective Date and each such member will be deemed to have resigned on the Effective Date.

(c) *Plan Administrator as Sole Officer/Director.* The Plan Administrator shall be the sole director and officer of each of the Debtors from and following the Effective Date.

### **7.12. *Corporate Action.***

(a) The Debtors shall serve on the United States Trustee quarterly reports of the disbursements made until such time as a final decree is entered closing the applicable Chapter 11 Case or the applicable Chapter 11 Case is converted or dismissed, or the Bankruptcy Court orders otherwise. Any deadline for filing Administrative Expense Claims shall not apply to fees payable pursuant to section 1930 of title 28 of the United States Code.

(b) Entry of the Confirmation Order shall establish conclusive corporate and other authority (and evidence of such corporate and other authority) required for each of the Debtors to undertake any and all acts and actions required to implement or contemplated by the Plan (including, without limitation, the execution and delivery of the APA), and such acts and actions shall be deemed to have occurred and shall be in effect pursuant to applicable non-bankruptcy law and the Bankruptcy Code, without the need for board or shareholder vote and without any requirement of further action by the stockholders or directors of the Debtors.

(c) On the Effective Date, the appropriate officers and managers of the Debtors are authorized to execute and/or deliver, as the case may be, the agreements, documents and instruments contemplated by the Plan, the Plan Supplement and the APA and any schedules, exhibits or other documents attached thereto or contemplated thereby in the name and on behalf of the Debtors.

(d) Upon entry of a final decree in each Chapter 11 Case, if not previously dissolved, the applicable Debtor shall be deemed dissolved and wound up without any further action required by such Debtor.

### **7.13. *Satisfaction of Prepetition Secured Lender Guaranty Claims.***

The treatment of, and Plan Distribution to, to the extent not already paid in full prior to the Effective Date, holders of Class 3(a) Prepetition Secured Credit Agreement Claims shall be in full satisfaction, settlement, release and discharge of, and in exchange for the Prepetition Secured Lender Guaranty Claims.

**7.14. *RG Tube Cash.***

In connection with the settlements and compromises embodied in this Plan, (i) the RG Tube Cash shall be used as follows: (i) first, to fund the Allowed Claims of the RGCH PIK Notes Agent and the Ad Hoc RGCH PIK Noteholders Committee Advisors; and (ii) second, the remainder shall be distributed in accordance with Section 8.9 of this Plan.

**7.15. *Additional Transactions Authorized Under this Plan.***

On or prior to the Effective Date, the Debtors shall be authorized to take any such actions as may be necessary or appropriate to reinstate Claims or Interests or render Claims or Interests not impaired, as provided for under this Plan.

**7.16. *Comprehensive Settlement of Claims and Controversies.***

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided under this Plan, the provisions of this Plan will constitute a good faith compromise and settlement of all Claims and Interests or controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Allowed Interest or any distribution to be made pursuant to this Plan on account of any Allowed Claim or Allowed Interest, including the Claims asserted against the Debtors by members of the Ad Hoc RGCH PIK Noteholders Committee and all Intercompany Claims between and among the Debtors (including with respect to any related to tax refunds received or to be received from one or more taxing authorities or otherwise). Without limiting the generality of the immediately preceding sentence, the Class 5(a) Distribution, if any, hereunder shall be in full and complete satisfaction of, among other things, potential or actual Intercompany Claims RGCH may have against RathGibson or RG Tube. The entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that all such compromises or settlements are: (a) in the best interests (x) of the Debtors and their respective Estates and property, and (y) of the Claim and Interest Holders; and (b) fair, equitable and reasonable.

**7.17. *Non-Substantive Consolidation.***

The Plan is a joint plan that does not provide for substantive consolidation of the Debtors' estates, and on the Effective Date, the Debtors' estates shall not be deemed to be substantively consolidated for purposes hereof. Except as specifically set forth herein, nothing in this Plan or the Disclosure Statement shall constitute or be deemed to constitute an admission that any one of the Debtors is subject to or liable for any claim against any other Debtor. Additionally, claimants holding Claims against multiple Debtors, to the extent Allowed in each Debtor's Chapter 11 Case, will be treated as holding a separate Claim against each Debtor's estate, provided, however, that no holder of an Allowed Claim shall be entitled to receive more than payment in full of such Allowed Claim (plus postpetition interest, if and to the extent provided in this Plan), and such Claims or Interests will be administered and treated in the manner provided in this Plan.

## ARTICLE VIII.

### DISTRIBUTIONS

#### **8.1. *Distributions.***

The Disbursing Agent shall make all Plan Distributions to the appropriate holders of Allowed Claims and Allowed Interests in accordance with the terms of this Plan.

#### **8.2. *No Postpetition Interest on Claims.***

Except with respect to Prepetition Secured Credit Agreement Claims, if any, and DIP Claims, unless otherwise specifically provided for in the Confirmation Order or other order of the Bankruptcy Court (including, without limitation, the Final DIP Order), or required by applicable bankruptcy or non-bankruptcy law, postpetition interest shall not accrue or be paid on any Claims, and no holder of a Claim shall be entitled to interest accruing on such Claim on or after the Petition Date.

#### **8.3. *Date of Distributions.***

Unless otherwise provided herein, any distributions and deliveries to be made hereunder shall be made on the Effective Date or as soon thereafter as is practicable, provided that the Debtors may utilize periodic distribution dates to the extent appropriate. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

#### **8.4. *Distribution Record Date.***

(a) As of the close of business on the Distribution Record Date, the various lists of holders of Claims and Interests in each of the Classes, as maintained by the Debtors, or their agents, shall be deemed closed and there shall be no further changes in the record holders of any of the Claims and Interests. Neither the Debtors nor the Disbursing Agent shall have any obligation to recognize any transfer of Claims or Interests occurring after the close of business on the Distribution Record Date. Additionally, with respect to payment of any Cure Costs or any Cure Disputes in connection with the assumption and/or assignment of the Debtors' executory contracts and leases, the Debtors shall have no obligation to recognize or deal with any party other than the non-Debtor party to the underlying executory contract or lease, even if such non-Debtor party has sold, assigned or otherwise transferred its Claim for a Cure Cost.

(b) Notwithstanding the foregoing or anything herein to the contrary, in connection with any distribution under this Plan to be effected through the facilities of DTC (whether by means of book-entry exchange, free delivery, or otherwise), the Debtors will be entitled to recognize and deal for all purposes under the Plan with such holders to the extent consistent with the customary practices of DTC used in connection with such distribution. Distributions to be made on account of Allowed Senior Notes Claims shall be made by the Disbursing Agent to the Senior Notes Indenture Trustee or such other party designated by the

Debtors, who shall also act as the transfer agent with respect to the Plan Consideration to be distributed to holders of Allowed Senior Notes Claims for further distribution in accordance with the terms of the Senior Notes Indenture or in accordance with this Plan where such Senior Notes Indenture is silent. The Senior Notes Indenture Trustee shall cooperate and assist the Disbursing Agent and applicable transfer agent in connection with such distributions to the holders of Allowed Senior Notes Claims. Distributions to be made on account of Allowed RGCH PIK Notes Claims shall be made by the Disbursing Agent to the RGCH PIK Notes Agent, who shall act as the transfer agent with respect to the Class 5(a) Distribution for further distribution in accordance with the terms of the RGCH PIK Notes Credit Agreement or in accordance with this Plan where such RGCH PIK Notes Credit Agreement is silent. The RGCH PIK Notes Agent shall cooperate and assist the Disbursing Agent in connection with such distributions to the holders of Allowed RGCH PIK Notes Claims.

#### **8.5. *Disbursing Agent.***

All distributions under this Plan shall be made by the applicable Debtor or the Disbursing Agent on and after the Effective Date as provided herein. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court and, in the event that the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by the applicable Debtor. Furthermore, any such Person required to give a bond shall notify the Bankruptcy Court and the U.S. Trustee in writing before terminating any such bond that is obtained.

#### **8.6. *Delivery of Distribution.***

The Disbursing Agent, subject to Bankruptcy Rule 9010, will make all distributions or payments to any holder of an Allowed Claim or an Allowed Interest as and when required by this Plan at: (i) the address of such holder on the books and records of the Debtors or their agents; or (ii) at the address in any written notice of address change delivered to the Debtors or the applicable Disbursing Agent, including any addresses included on any filed proofs of Claim or Interest or transfers of Claim filed pursuant to Bankruptcy Rule 3001 (provided that such transfer of Claim is docketed by the Bankruptcy Court on or before twenty (21) days prior to the Distribution Record Date). In the event that any distribution to any holder is returned as undeliverable, no distribution or payment to such holder shall be made unless and until the applicable Disbursing Agent has been notified of the then current address of such holder, at which time or as soon as reasonably practicable thereafter such distribution shall be made to such holder without interest, provided, however, such distributions or payments shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of ninety days from the later of: (i) the Effective Date; and (ii) the date such holder's Claim or Interest is first Allowed; provided, further, however, that any holder of an Allowed Claim or Allowed Interest that does not provide a current address to the Debtors within 120 days after the date on which a distribution was deliverable to such holder of an Allowed Claim or Allowed Interest shall be treated as though such Claim or Interest has been disallowed. Any such undeliverable distribution shall be made available for distribution to the holders of the remaining Allowed Claims and Allowed Interests, as applicable, and no further payments shall be made to the holder of an Allowed Claim or an Allowed Interest on account of such undeliverable distribution.

**8.7. *Unclaimed Property.***

Holders of Allowed Claims and Allowed Interests shall have ninety 120 days from the date of any Plan Distribution check to negotiate such checks. To the extent such checks are not negotiated within such time period, the payment on such applicable checks shall be stopped and the corresponding funds shall be made available for distribution to the remaining holders of Allowed Claims and Allowed Interests, as applicable, no further payments shall be made to the holder of an Allowed Claim or an Allowed Interest on account of such unclaimed property and such Claim or Interest shall be treated as though such Claim or Interest has been disallowed. The Debtors and the Disbursing Agent shall have no obligation to attempt to locate any holder of an Allowed Claim or Allowed Interest other than by reviewing the Debtors' books and records, proofs of Claim or proofs of Interest filed against the Debtors or transfers of Claim filed pursuant to Bankruptcy Rule 3001 (provided that such transfer of Claim is docketed by the Bankruptcy Court on or before twenty (21) days prior to the Distribution Record Date).

**8.8. *Reserve Accounts.***

On or as soon as practicable after the Effective Date, the Plan Administrator shall establish and maintain separate reserve accounts as set forth in this Plan and for Disputed Claims and Interests against each Debtor if such Claims and Interests were to become Allowed Claims or Allowed Interests. Each such reserve account shall be funded from that portion of the Purchase Price allocated to each Debtor after: (i) first, payment in full of Allowed DIP Claims, Allowed Administrative Expense Claims, Allowed Fee Claims, U.S. Trustee Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims and Allowed Other Secured Claims, and (ii) second, funding of the Wind Down Account, for the payment of Allowed Claims or Allowed Interests, as applicable, against each such Debtor pursuant to the terms of this Plan and for the benefit of the holders of Disputed Claims or Disputed Interests in the applicable Class. Other than establishing and maintaining one separate account for each Debtor, reserves may be merely bookkeeping entries or accounting methodologies, which may be revised from time to time, as appropriate.

**8.9. *Distribution of RG Tube Cash.***

The RG Tube Cash shall be distributed as follows:

- (a) first, to pay (or provide for the payment of): (i) the Allowed RGCH PIK Notes Agent Claims; and (ii) the Allowed Ad Hoc RGCH PIK Noteholders Committee Fee Claims;
- (b) second, to make the Class 6(a) Distribution;
- (c) third, to make the Class 6(b) Distribution;
- (d) fourth, to make the Class 5(a) Distribution; and
- (e) fifth, to make the Class 5(b) Distribution.

As part of the settlements and compromises contained herein, any remainder, after payment in accordance with this Section 8.9, shall be distributed to RathGibson to be distributed to its creditors in accordance with this Plan.

**8.10. *Satisfaction of Claims and Interests.***

Unless otherwise provided herein, any distributions and deliveries to be made on account of Allowed Claims and Allowed Interests hereunder shall be in complete settlement, satisfaction and discharge of such Allowed Claims and Allowed Interests.

**8.11. *Manner of Payment Under Plan.***

Except as specifically provided herein, at the option of the Debtors, any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtors.

**8.12. *Fractional Cents.***

Notwithstanding any other provision of the Plan to the contrary, no payment of fractions of cents will be made. Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding down of such fraction to the nearest whole cent.

**8.13. *No Distribution in Excess of Amount of Allowed Claim.***

Notwithstanding anything to the contrary herein, no holder of an Allowed Claim shall, on account of such Allowed Claim, receive a Plan Distribution (of a value set forth herein) in excess of the Allowed amount of such Claim plus postpetition interest on such Claim, to the extent interest is provided in Section 8.2 herein.

**8.14. *Setoffs and Recoupments.***

Each Debtor, or such entity's designee as instructed by such Debtor, may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off and/or recoup against any Allowed Claim (other than a Prepetition Secured Credit Agreement Claim, DIP Claim or a Senior Notes Claim) or any Allowed Interest, and the distributions to be made pursuant to this Plan on account of such Allowed Claim or Allowed Interest, any and all claims, rights and Causes of Action that a Debtor or its successors may hold against the holder of such Allowed Claim or Allowed Interest after the Effective Date; provided, however, that neither the failure to effect a setoff or recoupment nor the allowance of any Claim or Interest hereunder will constitute a waiver or release by a Debtor or its successor of any and all claims, rights and Causes of Action that a Debtor or its successor may possess against such holder.

**8.15. *Rights and Powers of Disbursing Agent.***

(a) *Powers of Disbursing Agent.* The Disbursing Agent shall be empowered to: (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (ii) make all applicable distributions or payments

contemplated hereby; (iii) employ professionals to represent it with respect to its responsibilities, and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court (including any order issued after the Effective Date), pursuant to this Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

(b) *Expenses Incurred on or After the Effective Date.* Except as otherwise ordered by the Bankruptcy Court, and subject to the written agreement of the Debtors if the Disbursing Agent is a Person other than the Plan Administrator, the amount of any reasonable documented fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including, without limitation, taxes) and any reasonable compensation and expense reimbursement Claims (including, without limitation, reasonable attorney and other professional fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Debtors.

#### **8.16. *Withholding and Reporting Requirements.***

In connection with this Plan and all distributions hereunder, the Debtors shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Plan Distributions hereunder shall be subject to any such withholding and reporting requirements. The Debtors shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including, without limitation, liquidating a portion of any Plan Distribution to generate sufficient funds to pay applicable withholding taxes or establishing any other mechanisms the Debtors or the Disbursing Agent believe are reasonable and appropriate, including requiring a holder of a Claim or Interest to submit appropriate tax and withholding certifications. Notwithstanding any other provision of this Plan: (i) each holder of an Allowed Claim and/or an Allowed Interest that is to receive a distribution under this Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations on account of such distribution; and (ii) no Plan Distributions shall be required to be made to or on behalf of such holder pursuant to this Plan if, after 120 days from the date of transmission of a written request to the holder of an Allowed Claim or Allowed Interest, the Debtors do not receive a valid, completed IRS form from such holder of an Allowed Claim or Allowed Interest, which is otherwise required for reporting purposes, and such holder shall be treated as if their Claims or Interests had been disallowed.

#### **8.17. *Cooperation with Disbursing Agent.***

The Debtors shall use all commercially reasonable efforts to provide the Disbursing Agent with the Allowed amount of Claims and Interests and the identity and addresses of holders of Claims and Interests, in each case, as set forth in the Debtors' books and records as of the Distribution Record Date. Notwithstanding the foregoing, the Senior Notes Indenture Trustee and the RGCH PIK Notes Agent, as the case may be, shall use commercially reasonable efforts to provide the applicable Disbursing Agent with the amount of Claims and the identity and address of holders of Claims, to the extent needed to effectuate distributions hereunder, in each case, as set forth in their books and records.



## ARTICLE IX.

### PROCEDURES FOR RESOLVING CLAIMS

#### 9.1. *Objections to Claims.*

Other than with respect to Fee Claims, only the Debtors shall be entitled to object to Claims after the Effective Date. Any objections to those Claims (other than Administrative Expense Claims), shall be served and filed on or before the later of: (i) one-hundred twenty (120) days after the Effective Date; and (ii) such other date as may be fixed by the Bankruptcy Court, whether fixed before or after the date specified in clause (i) hereof. Any Claims filed after the Bar Date or Administrative Expense Claims Bar Date, as applicable, shall be deemed disallowed and expunged in their entirety without further order of the Bankruptcy Court or any action being required on the part of the Debtors unless the Person wishing to file such untimely Claim has received Bankruptcy Court authority to do so. Notwithstanding any authority to the contrary, an objection to a Claim shall be deemed properly served on the claimant if the objecting party effects service in any of the following manners: (i) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004; (ii) by first class mail, postage prepaid, on the signatory on the proof of claim as well as all other representatives identified in the proof of claim or any attachment thereto; or (iii) if counsel has agreed to or is otherwise deemed to accept service, by first class mail, postage prepaid, on any counsel that has appeared on the claimant's behalf in the Chapter 11 Cases (so long as such appearance has not been subsequently withdrawn). From and after the Effective Date, the Debtors may settle or compromise any Disputed Claim without need for notice or approval of the Bankruptcy Court.

#### 9.2. *Amendment to Claims.*

From and after the Effective Date and in accordance with the Bar Date Order and the Administrative Expense Claims Bar Date Order (or such deadline as established pursuant to Section 3.2 of the Plan and the Confirmation Order), unless a claimant has obtained prior Bankruptcy Court approval, no Claim may be filed to increase or assert additional claims not reflected in an already filed Claim (or Claim scheduled, unless superseded by a filed Claim, on the applicable Debtor's Schedules of Assets and Liabilities filed in the Chapter 11 Cases) asserted by such claimant and any such Claim shall be deemed disallowed and expunged in its entirety without further order of the Bankruptcy Court or any action being required on the part of the Debtors. Notwithstanding anything contained herein to the contrary, unless otherwise ordered by the Bankruptcy Court, no reserves shall be required to be established or maintained with respect to Claims or Administrative Expense Claims filed after the applicable Bar Date.

#### 9.3. *Disputed Claims and Disputed Interests.*

(a) *No Distributions or Payments Pending Allowance.* Except as provided in this Section 9.3, Disputed Claims and Disputed Interests shall not be entitled to any Plan Distributions unless and until such Claims or Interests become Allowed Claims or Allowed Interests, as applicable.

(b) *Plan Distributions to Holders of Subsequently Allowed Claims and Subsequently Allowed Interests.* On each Distribution Date (or such earlier date as determined by the Debtors or the Disbursing Agent in their sole discretion but subject to this Section 9.3), the Disbursing Agent will make distributions or payments: (i) on account of any Disputed Claim or Disputed Interest that has become an Allowed Claim or Allowed Interest, as applicable, since the occurrence of the previous Distribution Date; and (ii) on account of previously Allowed Claims of property or Allowed Interests that would have been distributed or paid to the holders of such Claims or Interests on the dates distributions previously were made to holders of Allowed Claims or Allowed Interests, as applicable, in such Class had the Disputed Claims and Disputed Interests that have become Allowed Claims or Allowed Interests been Allowed on such dates. The Disbursing Agent shall distribute in respect of such newly Allowed Claims and Allowed Interests the Plan Consideration as to which holders of such Claims would have been entitled under this Plan if such newly Allowed Claims and Allowed Interests were fully or partially Allowed, as the case may be, on the Effective Date, less direct and actual expenses, fees, or other direct costs of maintaining Plan Consideration on account of such Disputed Claims and Disputed Interests, as applicable.

(c) *Distribution of Reserved Plan Consideration Upon Disallowance.* Except as otherwise provided in this Plan, to the extent any Disputed Claim or Disputed Interest has become Disallowed in full or in part (in accordance with the procedures set forth in the Plan), any Plan Consideration held by the Debtors on account of, or to pay, such Disputed Claim or Disputed Interest, including amounts held in any reserve, shall become the sole and exclusive property of the applicable Debtor and shall be applied in accordance with the terms of this Plan.

#### **9.4. *Estimation of Claims; Certain Reserves.***

For purposes of calculating and making distributions under the Plan, the Debtors shall be entitled to estimate, in good faith and with due regard to litigation risks associated with Disputed Claims, the maximum dollar amount of Allowed and Disputed Claims, inclusive of contingent and/or unliquidated Claims in a particular Class. The Debtors may request that the Bankruptcy Court estimate any Claim pursuant to section 502(c) of the Bankruptcy Code for purposes of determining the Allowed amount of such Claim regardless of whether any Person has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim for purposes of determining the allowed amount of such Claim at any time. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim for allowance purposes, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the objecting party may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, resolved or withdrawn by any mechanism approved by the Bankruptcy Court.

**9.5. *Directors' and Officers' Claims.***

All contingent and unliquidated Claims relating from the obligation of a Debtor to exculpate, indemnify and advance any expenses to any Person serving at any time for one or more of the Debtors as one of its directors or officers (statutory or otherwise) by reason of such Person's service in such capacity, or as a director or officer (statutory or otherwise) of any other corporation or legal entity, for acts or omissions occurring at or prior to the Effective Date, whether asserted or claimed prior to, at or after the Effective Date, to the extent provided in such Debtor's constituent documents, a written agreement with a Debtor, in accordance with any applicable law, or any combination of the foregoing, shall be treated under this Plan as a Claim for \$0.00 and the Debtors shall have no obligation to reserve any amounts therefor; provided, nothing herein shall effect the right of any such directors or officers (statutory or otherwise) to proceed against any Debtors' insurance policies, insurance proceeds or any insurer thereof nor effect the value of such Claims in respect of same.

**9.6. *No Recourse.***

Notwithstanding that the Allowed amount of any particular Disputed Claim or Disputed Interest is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is Allowed in an amount for which after application of the payment priorities established by this Plan there is insufficient value to provide a recovery equal to that received by other holders of Allowed Claims or Allowed Interests in the respective Class, no Claim or Interest holder shall have recourse against the Disbursing Agent, the Debtors, the Plan Administrator, the Purchaser or any of their respective professionals, consultants, officers, directors, employees or members or their successors or assigns, or any of their respective property. However, nothing in the Plan shall modify any right of a holder of a Claim under section 502(j) of the Bankruptcy Code, nor shall it modify or limit the ability of claimants (if any) to seek disgorgement to remedy any unequal distribution from parties other than those released under this section. THE ESTIMATION OF CLAIMS AND THE ESTABLISHMENT OF RESERVES UNDER THE PLAN MAY LIMIT THE DISTRIBUTION TO BE MADE ON INDIVIDUAL DISPUTED CLAIMS, REGARDLESS OF THE AMOUNT FINALLY ALLOWED ON ACCOUNT OF SUCH DISPUTED CLAIMS.

**9.7. *Expenses Incurred On or After the Effective Date.***

Except as otherwise ordered by the Bankruptcy Court, and subject to the written agreement of the Debtors, the amount of any reasonable fees and expenses incurred by any Professional Person or the Claims Agent on or after the Effective Date in connection with implementation of this Plan, including without limitation, reconciliation of, objection to, and settlement of Claims, shall be paid in Cash by the Debtors.

## ARTICLE X.

### EXECUTORY CONTRACTS AND UNEXPIRED LEASES

#### 10.1. *General Treatment.*

(a) As of and subject to the occurrence of the Effective Date and payment (or provision of the adequate assurance of payment) of the applicable Cure Costs, to the fullest extent permitted under applicable law, all executory contracts and unexpired leases of the Debtors shall be deemed to be assumed by the applicable Debtor as of the Effective Date, except for any executory contract or unexpired lease that: (i) previously has been assumed and assigned or rejected pursuant to a Final Order of the Bankruptcy Court; (ii) is designated specifically or by category as a contract or lease to be rejected on the Schedule of Rejected Contracts and Leases; (iii) is the subject of a separate motion to assume and assign to a Person other than the Purchaser or to reject under section 365 of the Bankruptcy Code pending on the Effective Date; provided, however, that, to the fullest extent permitted by applicable law, the Purchaser shall have the right to instruct the Debtors to, and at the instruction of the Purchaser, the Debtors shall, at any time and from time to time prior to ten (10) days prior to the Confirmation Hearing (or such later date as is specified in the APA), amend the Schedule of Rejected Contracts and Leases in the manner set forth in the APA, the Bid Procedures Order, or by any other means approved by the Bankruptcy Court, to add any executory contract or unexpired lease listed therein, thereby providing for the rejection of such executory contract or lease pursuant to the terms hereof or to delete any executory contract or unexpired lease therein, thereby providing for its assumption and assignment pursuant to the terms hereof. Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumptions, assignments and rejections pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Listing a contract or lease in the Schedule of Rejected Contracts and Leases shall not constitute an admission by the applicable Debtor that the applicable Debtor has any liability thereunder.

(b) Except with respect to those insurance policies and any agreements, documents or instruments relating thereto that are listed on the Schedule of Rejected Contracts and Leases, all of the Debtors' insurance policies and any agreements, documents or instruments relating thereto, shall be treated as executory contracts of the applicable Debtor under the Plan and the Bankruptcy Code and shall be assumed and assigned to the Purchaser in accordance with the terms of the APA and this Plan.

(c) The final Schedule of Rejected Contracts and Leases shall be subject to the prior approval of the Purchaser.

(d) Subject to Section 10.2 of this Plan, entry of the Confirmation Order shall, subject to the occurrence of the Effective Date, constitute: (i) the approval, pursuant to sections 365(a) and 1123(b) of the Bankruptcy Code, of the assumption and assignment of the executory contracts and unexpired leases assumed and assigned pursuant to Section 10.1(a) and Section 10.1(b) of this Plan; and (ii) the approval, pursuant to sections 365(a) and 1123(b) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases listed on the

Schedule of Rejected Contracts and Leases pursuant to Section 10.1(a) or Section 10.1(b) of this Plan.

**10.2. Claims Based on Rejection of Executory Contracts or Unexpired Leases.**

(a) All Claims arising from the rejection of executory contracts or unexpired leases, if any, will be treated as General Unsecured Claims. Upon receipt of their applicable Plan Distribution pursuant to Article V of this Plan, all such Claims shall be discharged on the Effective Date, and shall not be enforceable against the Debtors, the Purchaser or their respective properties or interests in property (and shall not, for the avoidance of doubt, constitute Assumed Liabilities).

(b) *Each Person who is a party to a contract or lease rejected under the Plan must file with the Bankruptcy Court and serve on the Debtors, not later than thirty (30) days after the Effective Date, a proof of claim for damages alleged to arise from the rejection of the applicable contract or lease or be forever barred from filing a Claim, or sharing in distributions under the Plan, related to such alleged rejection damages.*

**10.3. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.**

(a) Within five (5) Business Days after entry of the Bid Procedures Order, the Debtors shall serve a notice (the "**Assumption Notice**") on the applicable counterparty of potential assumption and assignment of the executory contracts and unexpired leases that are anticipated to be assumed and assigned to the Purchaser (the "**Assigned Contracts**") and the amount, if any, that the Debtors contend is the amount needed to cure any defaults and pecuniary losses with respect to such Assigned Contracts (the "**Cure Costs**"); provided, however, except as designated specifically or by category as a contract or lease to be rejected on the Schedule of Rejected Contracts and Leases, all executory contracts and unexpired leases shall be assumed by the Debtors and assigned to the Purchaser and, to the extent a counterparty to an Assigned Contract does not receive an Assumption Notice, the Cure Cost for such executory contract or unexpired lease shall be \$0.00. If the Debtors identify additional executory contracts and unexpired leases that might be assumed by the Debtors and assigned to the Purchaser, the Debtors will promptly send a supplemental Assumption Notice to the applicable counterparties to such contract or lease.

(b) Except to the extent that less favorable treatment has been agreed to by the non-Debtor party or parties to each such executory contract or lease, the Purchaser (or the Debtors if so specified in the APA) shall cure any monetary defaults arising under each executory contract and lease to be assumed pursuant to the Plan and assigned to the Purchaser pursuant to Section 10.1(a) or Section 10.1(b) of this Plan, in accordance with section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Cost on the later of: (i) the Effective Date or as soon thereafter as is reasonably practicable; and (ii) the date on which the Cure Cost has been resolved (either consensually or through judicial decision, subject, in any such case, to the terms and conditions of the APA) or as soon thereafter as is reasonably practicable.

(c) Any party that fails to object to the applicable Cure Cost listed on the Assumption Notice by 5:00 p.m. (prevailing Eastern time) on the later of: (i) April 15, 2010, or

(ii) eight (8) days after service of the supplemental Assumption Notice on such party, (a) shall be forever barred, estopped and enjoined from (x) disputing the Cure Cost relating to any executory contract or unexpired lease set forth on the Assumption Notice or, if no Assumption Notice is received and such executory contract or unexpired lease is not listed on the Schedule of Rejected Contracts and Leases, a Cure Cost of \$0.00, and (y) asserting any Claim against the applicable Debtor arising under section 365(b)(1) of the Bankruptcy Code other than as set forth on the Assumption Notice or, if no Assumption Notice is received and such executory contract or unexpired lease is not listed on the Schedule of Rejected Contracts and Leases, a Claim in the amount of \$0.00; and (b) shall be deemed to have consented to the assumption and assignment of such executory contract and unexpired lease and shall be forever barred and estopped from asserting or claiming against the Debtors, the Purchaser or any other assignee of the relevant executory contract or unexpired lease that any additional amounts are due or defaults exist, or conditions to assumption and assignment of such executory contract or unexpired lease must be satisfied (pursuant to section 365(b)(1) of the Bankruptcy Code or otherwise). Any objection relating to the Cure Cost shall specify the Cure Cost proposed by the counterparty to the applicable contract or lease.

(d) In the event of a dispute (each, a “**Cure Dispute**”) regarding: (i) any Cure Cost; (ii) the ability of the Debtors or the Purchaser to demonstrate “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under any contract or lease to be assumed; or (iii) any other matter pertaining to the proposed assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made at the times set forth in Section 10.3(b) of this Plan following the entry of a Final Order resolving such Cure Dispute and approving the assumption. To the extent a Cure Dispute relates solely to a Cure Cost, the applicable Debtor may assume and assign the applicable contract or lease prior to the resolution of the Cure Dispute provided that the Purchaser establishes a reserve containing Cash in an amount sufficient to pay the full amount asserted as cure payment by the non-Debtor party to such contract or lease (or such smaller amount as may be fixed or estimated by the Bankruptcy Court). To the extent the Cure Dispute is resolved or determined unfavorably to the applicable Debtor, such Debtor may (with the consent of the Purchaser), reject the applicable executory contract or unexpired lease after such determination. Any Cure Disputes not consensually resolved prior to the Confirmation Hearing shall be heard at the Confirmation Hearing (or such other hearing as requested by the Debtors and determined appropriate by the Bankruptcy Court), including any disputed Cure Costs or objections to assumption and assignment, and/or objections to the adequacy of assurance of future performance being provided.

#### **10.4. Compensation and Benefit Programs.**

All employment and severance policies, and all compensation and benefit plans, policies, and programs of the Debtors applicable to their respective employees, retirees and non-employee directors including, without limitation, all savings plans, retirement plans, healthcare plans, disability plans, severance benefit plans, incentive plans, and life, accidental death and dismemberment insurance plans are treated as executory contracts under the Plan and on the Effective Date will be listed on the Schedule of Rejected Contracts and will be rejected unless any of the foregoing is a Purchased Asset and the counterparty thereto receives an Assumption Notice, in which case the same shall be assumed and assigned to the Purchaser pursuant to the APA and in accordance with sections 365 and 1123 of the Bankruptcy Code.

**10.5. *Post-Petition Contracts and Leases.***

Except to the extent set forth on the Schedule of Rejected Contracts and Leases, all contracts, agreements and leases that were entered into or assumed by the Debtors after the Petition Date (other than the APA and the Ancillary Agreements (as defined in the APA)) shall be deemed assigned by the Debtors to the Purchaser on the Effective Date, without a need for any consent or approval of, or notice to, the counterparty to any such contract, agreement or lease.

**ARTICLE XI.**

**CONDITIONS PRECEDENT TO  
CONSUMMATION OF THE PLAN**

**11.1. *Conditions Precedent to Confirmation.***

Confirmation of this Plan is subject to entry of the Confirmation Order by the Bankruptcy Court in form and substance acceptable to the Debtors and the Purchaser (solely to the extent that the Confirmation Order relates to the Specified Matters (as defined in the APA)), and there shall not be a stay or injunction (or similar prohibition) in effect with respect thereto.

**11.2. *Conditions Precedent to the Effective Date.***

The occurrence of the Effective Date is subject to:

- (a) the Confirmation Order shall have become a Final Order;
- (b) the Plan Documents being executed and delivered, and any conditions (other than the occurrence of the Effective Date or certification by a Debtor that the Effective Date has occurred) contained therein having been satisfied or waived in accordance therewith;
- (c) all material governmental, regulatory and third party approvals, authorizations, certifications, rulings, no-action letters, opinions, waivers and/or consents in connection with the Plan and the APA, if any, having been obtained (unless failure to do so will not have a material adverse effect on the Debtors) and remaining in full force and effect, and there existing no claim, action, suit, investigation, litigation or proceeding, pending or threatened in any court or before any arbitrator or governmental instrumentality, which would prohibit the consummation of the Plan;
- (d) pursuant to section 1129(a)(4) of the Bankruptcy Code, the Debtors shall have paid in full in Cash all undisputed Ad Hoc Senior Noteholders Committee Fee Claims and all undisputed Senior Notes Indenture Trustee Claims;
- (e) all DIP Claims shall have been paid in full in Cash or the Debtors shall have provided reasonably satisfactory evidence that such Claims shall be paid from the proceeds of the Sale or otherwise;

(f) there being sufficient Cash, in the Debtors' good faith determination, to pay in full all Administrative Expense Claims, Fee Claims and Priority Tax-Claims;

(g) all conditions to closing under the APA shall have been satisfied or waived in accordance with the terms thereof; and

(h) the Sale shall have been consummated (including, without limitation, the delivery of the Purchased Assets to the Purchaser (subject to Section 8.3 of the Stalking Horse Agreement in the event the Stalking Horse Bidder is the successful bidder and after giving effect thereto) free and clear of all Liens, Claims, charges, interests or other encumbrances (other than Permitted Encumbrances (as defined in the APA)).

### **11.3. *Waiver of Conditions Precedent and Bankruptcy Rule 3020(e) Automatic Stay.***

(a) The Debtors, with the consent of the Purchaser solely to the extent such conditions involve the APA or the transactions contemplated thereby, shall have the right to waive any condition precedent set forth in Section 11.2 of this Plan at any time without leave of or notice to the Bankruptcy Court and without formal action other than proceeding with confirmation of the Plan. Further, the stay of the Confirmation Order, pursuant to Bankruptcy Rule 3020(e), shall be deemed waived by the Confirmation Order.

(b) If any condition precedent to the Effective Date is waived pursuant to this Section 11.3 and the Effective Date occurs, the waiver of such condition shall benefit from the "mootness doctrine," and the act of consummation of this Plan shall foreclose any ability to challenge this Plan in any court.

### **11.4. *Effect of Failure of Conditions.***

If all of the conditions to effectiveness and the occurrence of the Effective Date have not been satisfied or duly waived (as provided in Section 11.3 above) on or before the first Business Day that is more than 60 days after the Confirmation Date, or by such later date as set forth by the Debtors in a notice filed with the Bankruptcy Court prior to the expiration of such period, then the Debtors may file a motion to vacate the Confirmation Order before all of the conditions have been satisfied or duly waived. It is further provided that notwithstanding the filing of such a motion, the Confirmation Order shall not be vacated if all of the conditions to consummation set forth in Section 11.2 hereof are either satisfied or duly waived before the Bankruptcy Court enters an order granting the relief requested in such motion. If the Confirmation Order is vacated pursuant to this Section 11.4, this Plan shall be null and void in all respects, the Confirmation Order shall be of no further force or effect, no distributions under this Plan shall be made, the Debtors and all holders of Claims and Interests in the Debtors shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred, and upon such occurrence, nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims against or Interests in the Debtors; (b) prejudice in any manner the rights of the holder of any Claim against or Interest in the Debtors; or (c) constitute an admission, acknowledgment, offer or undertaking by any Debtor or any other Person with respect to any matter set forth in the Plan.



## ARTICLE XII.

### EFFECT OF CONFIRMATION

#### **12.1. *Binding Effect.***

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of this Plan shall bind any holder of a Claim against, or Interest in, the Debtors and inure to the benefit of and be binding on such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is impaired under this Plan and whether or not such holder has accepted this Plan.

#### **12.2. *Vesting of Assets.***

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, and except as otherwise provided in this Plan or in the Confirmation Order, the Excluded Assets (and all Nonassignable Assets that are Purchased Assets) shall vest in the applicable Debtor, free and clear of all Claims, Liens, encumbrances, charges, and other Interests (other than, with respect to any of the Nonassignable Assets, any Liens, charges or other encumbrances created under the APA). From and after the Effective Date, the Debtors may, subject to the terms of the APA, take such actions as are necessary to effect the Wind Down, including using and disposing of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code, except as provided herein.

#### **12.3. *Term of Pre-Confirmation Injunctions or Stays.***

Unless otherwise provided herein, all injunctions or stays arising prior to the Confirmation Date in accordance with sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### **12.4. *Injunction Against Interference With Plan.***

Upon the entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former affiliates, employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of this Plan.

#### **12.5. *Injunction.***

(a) *Except as otherwise provided in this Plan or the Confirmation Order, as of the Confirmation Date, but subject to the occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against or Interests in the Debtors or the Estates are, with respect to any such Claims or Interests, permanently enjoined after the Confirmation Date from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial,*

*arbitral, administrative or other forum) against or affecting the Debtors, the Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtors, or the Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons, or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors, or the Estates or any of their property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan to the full extent permitted by applicable law; and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan; provided, however, that nothing contained herein shall preclude such Persons from exercising their rights, or obtaining benefits, pursuant to and consistent with the terms of this Plan.*

(b) By accepting distributions pursuant to this Plan, each holder of an Allowed Claim or Interest will be deemed to have specifically consented to the Injunctions set forth in this Section.

#### **12.6. Releases.**

(a) *Releases by the Debtors. For good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise provided in this Plan or the Confirmation Order, as of the Effective Date, the Debtors, in their individual capacities and as debtors in possession shall be deemed to forever release, waive and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of the Debtors to enforce this Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder) against the Released Parties, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the parties released pursuant to this Section 12.6, the Chapter 11 Cases, this Plan or the Disclosure Statement, and that could have been asserted by or on behalf of the Debtors or their Estates, whether directly, indirectly, derivatively or in any representative or any other capacity; provided, however, that the foregoing is not intended to release any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities of or owed to the Debtors, with respect to money borrowed from or owed to the Debtors by the current and former directors, officers and employees of the Debtors, as set forth in the Debtors' books and records.*

(b) *Releases by Holders of Claims and Interests. Except as otherwise provided in this Plan or the Confirmation Order, on the Effective Date: (i) each holder of a Claim or Interest that voted to accept the Plan; and (ii) to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, all*

holders of Claims and Interests, in consideration for the obligations of the Debtors under this Plan and the other contracts, instruments, releases, agreements or documents executed and delivered in connection with this Plan, and each Person (other than the Debtors) that has held, holds or may hold a Claim or Interest, as applicable, will be deemed to have consented to this Plan for all purposes and the restructuring embodied herein and deemed to forever release, waive and discharge all claims, demands, debts, rights, Causes of Action or liabilities (other than the right to enforce the obligations of any party under this Plan and the contracts, instruments, releases, agreements and documents delivered under or in connection with this Plan, including, without limitation, the APA) against the Released Parties, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Chapter 11 Cases, the Sale, the transactions contemplated by the Stalking Horse Agreement, this Plan or the Disclosure Statement; provided, however, that the foregoing releases shall not apply to any holder of a Claim or Interest if such holder "opts out" of the releases provided in this Section 12.6 in a timely submitted Ballot.

(c) Notwithstanding anything to the contrary contained herein: (i) except to the extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, the releases provided for in this Section 12.6 of the Plan shall not release any non-Debtor entity from any liability arising under (x) the Internal Revenue Code or any state, city or municipal tax code, or (y) any criminal laws of the United States or any state, city or municipality; and (ii) the releases set forth in this Section 12.6 shall not release any (x) Debtor's claims, right, or Causes of Action for money borrowed from or owed to a Debtor or its Subsidiary by any of its directors, officers or former employees, as set forth in such Debtors' or Subsidiary's books and records, (y) claims against any Person to the extent such Person asserts a crossclaim, counterclaim and/or claim for setoff which seeks affirmative relief against a Debtor or any of its officers, directors, or representatives hereof, and (z) Person's fraud, gross negligence or willful misconduct, each as determined by a Final Order of the Bankruptcy Court, for matters with respect to the Debtors and their Subsidiaries and/or affiliates.

(d) Notwithstanding anything to the contrary contained herein, nothing herein: (i) discharges, releases, or precludes any (a) environmental liability that is not a Claim; (b) environmental claim of the United States that first arises on or after the Confirmation Date, or (c) other environmental claim or liability that is not otherwise dischargeable under the Bankruptcy Code; (ii) releases the Debtors from any environmental liability that a Debtor may have as an owner or operator of real property owned or operated by a Debtor on or after the Confirmation Date; (iii) releases or precludes any environmental liability to the United States on the part of any Persons other than the Debtors; or (iv) enjoins the United States from asserting or enforcing any liability described in this paragraph; provided, that the holder of a Claim in respect of any such environmental liability that is an Assumed Liability shall have no recourse against the Debtors or the Plan Administrator or any of their property with respect to such Assumed Liability.

### **12.7. Exculpation and Limitation of Liability.**

*None of the Released Parties shall have or incur any liability to any holder of any Claim or Interest or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or agents acting in such capacity, or affiliates, or any of their successors or assigns, for any act or omission in connection with, or arising out of the Debtors' restructuring, including without limitation, the negotiation, implementation and execution of this Plan, the Chapter 11 Cases, the APA, the Disclosure Statement, the solicitation of votes for and the pursuit of confirmation of this Plan, the consummation of this Plan, or the administration of this Plan or the property to be distributed under this Plan, including, without limitation, all documents ancillary thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto and all prepetition activities leading to the promulgation and confirmation of this Plan except, gross negligence, or willful misconduct, each as determined by a Final Order of the Bankruptcy Court.*

### **12.8. Injunction Related to Releases and Exculpation.**

*The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released pursuant to this Plan, including but not limited to the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released in Sections 12.6 and 12.7 of this Plan. Such injunction shall extend to successors of the Debtors and their respective properties and interests in property.*

### **12.9. Termination of Subordination Rights and Settlement of Related Claims.**

(a) Except as provided herein, the classification and manner of satisfying all Claims and Interests and the respective distributions and treatments under the Plan take into account or conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code or otherwise, and any and all such rights are settled, compromised and released pursuant to the Plan. The Confirmation Order shall permanently enjoin, effective as of the Effective Date, all Persons and entities from enforcing or attempting to enforce any such contractual, legal and equitable rights satisfied, compromised and settled pursuant to this Article XII.

(b) Pursuant to Bankruptcy Rule 9019 and in consideration of the distributions and other benefits provided under this Plan, the provisions of this Plan will constitute a good faith compromise and settlement of all claims or controversies relating to the subordination rights that a holder of a Claim or Interest may have or any distribution to be made pursuant to this Plan on account of such Claim or Interest. Entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtors, their respective properties, and holders of Claims and Interests, and is fair, equitable and reasonable.

**12.10. Retention of Causes of Action/Reservation of Rights.**

Subject to Sections 12.6 and 14.13 herein, nothing contained in this Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims or Causes of Action, rights of setoff, or other legal or equitable defenses that the Debtors had immediately prior to the Effective Date on behalf of the Estates or of themselves in accordance with any provision of the Bankruptcy Code or any applicable non-bankruptcy law. With respect to the Excluded Assets and Excluded Liabilities, the Debtors shall have, retain, reserve, and be entitled to assert all such claims, Causes of Action, rights of setoff, or other legal or equitable defenses as fully as if the Chapter 11 Cases had not been commenced, and all of the Debtors' legal and/or equitable rights respecting any Claim left unimpaired, as set forth in Section 4.2 herein, may be asserted after the Confirmation Date to the same extent as if the Chapter 11 Cases had not been commenced.

**12.11. No Successor Liability.**

Except as otherwise expressly provided in the Plan or the APA, the Purchaser does not, pursuant to this Plan or otherwise, assume, agree to perform, pay or indemnify or otherwise have any responsibilities for any liabilities or obligations of the Debtors or any other party relating to or arising out of the operations of or assets of the Debtors, whether arising prior to, on, or after the Effective Date. The Purchaser is not, and shall not be, a successor to any of the Debtors by reason of any theory of law or equity, and it shall not have any successor or transferee liability of any kind or character, except that the Purchaser shall assume the Assumed Liabilities under the terms and subject to the conditions set forth in the APA.

**ARTICLE XIII.**

**RETENTION OF JURISDICTION**

Pursuant to sections 105(c) and 1142 of the Bankruptcy Code and notwithstanding entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction, pursuant to 28 U.S.C. §§ 1334 and 157, over all matters arising in, arising under, or related to the Chapter 11 Cases for, among other things, the following purposes:

- (a) To hear and determine applications for the assumption or rejection of executory contracts or unexpired leases and the Cure Disputes resulting therefrom;
- (b) To determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;
- (c) To ensure that distributions to holders of Allowed Claims or Allowed Interests are accomplished as provided herein;
- (d) To consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim, including any Administrative Expense Claim;

(e) To consider Interests or the allowance, compromise or distributions on account of any Interest.

(f) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(g) To issue and enforce injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of this Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

(h) To hear and determine any application to modify this Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in this Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(i) To hear and determine all Fee Claims;

(j) To resolve disputes concerning any reserves with respect to Disputed Claims or the administration thereof;

(k) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan, the Confirmation Order, the APA, any transactions or payments contemplated hereby, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(l) To take any action and issue such orders, including any such action or orders as may be necessary after occurrence of the Effective Date and/or consummation of the Plan, as may be necessary to construe, enforce, implement, execute, and consummate this Plan, including any release or injunction provisions set forth herein, or to maintain the integrity of this Plan following consummation;

(m) To determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(n) To hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

(o) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(p) To resolve any disputes concerning whether a Person had sufficient notice of the Chapter 11 Cases, the Disclosure Statement Hearing, the Confirmation Hearing, any applicable Bar Date, or the deadline for responding or objecting to a Cure Cost, for the purpose of determining whether a Claim or Interest is discharged hereunder, or for any other purpose;

- (q) To recover any property of the Estates that are not Purchased Assets, wherever located;
  - (r) To determine any other matter not inconsistent with the Bankruptcy Code;
- and
- (s) To enter a final decree closing each of the Chapter 11 Cases.

#### **ARTICLE XIV.**

#### **MISCELLANEOUS PROVISIONS**

##### **14.1. *Surrender of Instruments.***

As a condition to participation under this Plan, the holder of a note, debenture or other evidence of indebtedness of the Debtors that desires to receive the property to be distributed on account of an Allowed Claim based on such note, debenture or other evidence of indebtedness shall surrender such note, debenture or other evidence of indebtedness to the Debtors, or their designee (unless such holder's Claim will be reinstated by this Plan, in which case such surrender shall not be required), and shall execute and deliver such other documents as are necessary to effectuate this Plan; provided, however, that if a claimant is a holder of an equity security, note, debenture or other evidence of indebtedness for which no physical certificate was issued to the holder but which instead is held in book-entry form pursuant to a global security held by DTC or other securities depository or custodian thereof, then the Debtors or the indenture trustee for such equity security, note, debenture or other evidence of indebtedness shall waive the requirement of surrender. Except as otherwise provided in this section, if no surrender of a security, note, debenture or other evidence of indebtedness occurs and a claimant does not provide an affidavit and indemnification agreement, in form and substance satisfactory to the Debtors, that such security, note, debenture or other evidence of indebtedness was lost, then no distribution may be made to any claimant whose Claim or Interest is based on such security, note, debenture or other evidence of indebtedness thereof. The Debtors shall make subsequent distributions only to the Persons who surrender the securities for exchange (or their assignees) and the record holders of such securities shall be those holders of record as of the Effective Date.

##### **14.2. *Exemption from Certain Transfer Taxes.***

To the fullest extent permitted by applicable law, all sale transactions consummated by the Debtors and approved by the Bankruptcy Court on and after the Confirmation Date through and including the Effective Date, including the transfers effectuated under this Plan, the sale by the Debtors of any owned property pursuant to section 363(b) of the Bankruptcy Code, and any assumption, assignment, and/or sale by the Debtors of their interests in unexpired leases of non-residential real property or executory contracts pursuant to section 365(a) of the Bankruptcy Code, shall constitute a "transfer under a plan" within the purview of section 1146 of the Bankruptcy Code, and shall not be subject to any stamp, real estate transfer, mortgage recording, or other similar tax.

### **14.3. *Retiree Benefits.***

On and after the Effective Date, pursuant to section 1129(a)(13) of the Bankruptcy Code, payments in respect of retiree benefits (within the meaning of, and subject to the limitations of, section 1114 of the Bankruptcy Code), if any, at the level established in accordance with section 1114 of the Bankruptcy Code, at any time prior to the Confirmation Date, shall be continued for the duration of the period for which the Debtors had obligated themselves to provide such benefits. Nothing herein shall: (i) restrict Purchaser's right to modify the terms and conditions of the retiree benefits, if any, as otherwise permitted pursuant to the terms of the applicable plans, non-bankruptcy law, or section 1114(m) of the Bankruptcy Code; or (ii) be construed as an admission that any such retiree benefits are owed by the Debtors.

### **14.4. *Dissolution of Creditors' Committee.***

The Creditors' Committee shall be automatically dissolved on the later of: (i) the Effective Date; and (ii) the conclusion of any appeals with respect to the Confirmation Order (but such functions shall relate solely to services performed related to such appeal), and the Creditors' Committee shall be deemed dissolved as of such date except with respect to the review and prosecution of Fee Claims and any objections thereto. Following the Effective Date, the attorneys and financial advisors to the Creditors' Committee shall be entitled to assert any reasonable claims for compensation for services rendered or reimbursement for expenses incurred after the Effective Date in connection with the pursuit of their own Fee Claims or the representation of the Creditors' Committee in connection with the review of and the right to be heard in connection with all Fee Claims. Except as otherwise provided in this Section 14.4, on the Effective Date, all members, employees or agents of the Creditors' Committee shall be released and discharged from all rights and duties arising from, or related to, the Chapter 11 Cases.

### **14.5. *Termination of Professionals.***

On the Effective Date, the engagement of each Professional Person retained by the Debtors and the Creditors' Committee, if any, shall be terminated without further order of the Bankruptcy Court or act of the parties; provided, however, such Professional Persons shall be entitled to prosecute their respective Fee Claims and represent their respective constituents with respect to applications for payment of such Fee Claims and the Debtors shall be responsible for the fees, costs and expenses associated with the prosecution of such Fee Claims. Nothing herein shall preclude any Debtor from engaging a Professional Person on and after the Effective Date in the same capacity as such Professional Person was engaged prior to the Effective Date.

### **14.6. *Amendments.***

(a) *Plan Modifications.* This Plan may be amended, modified, or supplemented by the Debtors, with the consent of the Purchaser (solely as such amendment, modification or supplement relates to any of the Specified Matters), in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as otherwise ordered by the Bankruptcy Court. In addition, after the Confirmation Date, so long as such action does not



materially and adversely affect the treatment of holders of Allowed Claims and Allowed Interests pursuant to this Plan, the Debtors may, with the consent of the Purchaser (solely as such action relates to any of the Specified Matters), remedy any defect or omission or reconcile any inconsistencies in this Plan, the Plan Documents and/or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of this Plan, and any holder of a Claim or Interest that has accepted this Plan shall be deemed to have accepted this Plan as amended, modified, or supplemented.

(b) *Other Amendments.* Prior to the Effective Date, the Debtors may make, with the consent of the Purchaser (solely as such relates to any of the Specified Matters), appropriate technical adjustments and modifications to this Plan without further order or approval of the Bankruptcy Court; provided, however, that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests under the Plan.

#### **14.7. *Revocation or Withdrawal of this Plan.***

The Debtors reserve the right to revoke or withdraw this Plan prior to the Effective Date. If the Debtors revoke or withdraw this Plan prior to the Effective Date as to any or all of the Debtors, or if confirmation or consummation as to any or all of the Debtors does not occur, then, with respect to such Debtors: (a) this Plan shall be null and void in all respects; (b) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain any Claim or Interest or Class of Claims or Interests), assumption or rejection of executory contracts or leases affected by this Plan, and any document or agreement executed pursuant to this Plan shall be deemed null and void; and (c) nothing contained in this Plan shall (i) constitute a waiver or release of any Claims by or against, or any Interests in, such Debtors or any other Person, (ii) prejudice in any manner the rights of such Debtors or any other Person or (iii) constitute an admission of any sort by the Debtors or any other Person. Notwithstanding anything to the contrary contained herein and except to the extent necessitated by the Board of Director's (of each Debtor) fiduciary obligations, the Debtors shall not seek to withdraw or revoke this Plan without the consent of the Purchaser.

#### **14.8. *Allocation of Plan Distributions Between Principal and Interest.***

To the extent that any Allowed Claim entitled to a distribution under the Plan consists of indebtedness and other amounts (such as accrued but unpaid interest thereon), such distribution shall be allocated first to the principal amount of the Claim (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claim, to such other amounts.

#### **14.9. *Severability.***

If, prior to the entry of the Confirmation Order, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or

provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

#### **14.10. *Governing Law.***

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent a Plan Document or exhibit or schedule to the Plan provides otherwise, the rights, duties, and obligations arising under this Plan and the Plan Documents shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflict of laws thereof.

#### **14.11. *Section 1125(e) of the Bankruptcy Code.***

The Debtors have, and upon confirmation of this Plan shall be deemed to have, solicited acceptances of this Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, and the Debtors (and their affiliates, agents, directors, officers, employees, advisors, and attorneys) have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer, issuance, sale, and purchase of the securities offered and sold under this Plan, and therefore are not, and on account of such offer, issuance, sale, solicitation, and/or purchase will not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of this Plan or offer, issuance, sale, or purchase of the securities offered and sold under this Plan.

#### **14.12. *Inconsistency.***

In the event of any inconsistency among the Plan, the Disclosure Statement, the Plan Documents, any exhibit to the Plan or any other instrument or document created or executed pursuant to the Plan, the provisions of the Plan shall govern.

#### **14.13. *Avoidance and Recovery Actions.***

Effective as of the Effective Date, the Debtors retain the right to prosecute any avoidance or recovery actions under sections 544, 547, 548, 549 and 550 of the Bankruptcy Code except for any such actions that are Purchased Assets.

#### **14.14. *Successors and Assigns.***

The rights, benefits, and obligations of any Person named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or assigns of such Person.

#### **14.15. *Time.***

In computing any period of time prescribed or allowed by this Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

**14.16. Exhibits.**

All exhibits to this Plan are incorporated and are a part of this Plan as if set forth in full herein.

**14.17. Notices.**

In order to be effective, all notices, requests, and demands to or upon the Debtors shall be in writing (including by facsimile transmission) and, unless otherwise provided herein, shall be deemed to have been duly given or made only when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

RathGibson, Inc.  
475 Half Day Road, Suite 210  
Lincolnshire, IL 60069  
Attn: Michael G. Schwartz  
President and Chief Executive Officer

-and-

Willkie Farr & Gallagher LLP  
787 Seventh Avenue  
New York, New York 10019-6099  
Attn: Paul V. Shalhoub, Esq.  
Robin Spigel, Esq.  
Telephone: (212) 728-8000  
Facsimile: (212) 728-8111

Counsel to the Debtors

*If to the Creditors' Committee:*

Otterbourg, Steindler, Houston & Rosen, P.C.  
230 Park Avenue  
New York, New York 10169  
Attn: Jenette A. Barrow-Bosshart, Esq.  
Jessica M. Ward, Esq.

Counsel to the Creditors' Committee

*If to the Ad Hoc Senior Noteholders Committee or the Stalking Horse Bidder:*

Stroock & Stroock & Lavan LLP

180 Maiden Lane  
New York, New York 10038  
Attn: Kristopher M. Hansen, Esq.  
Matthew A. Schwartz, Esq.  
Jayme T. Goldstein, Esq.  
Telephone: (212) 806-5400  
Facsimile: (212) 806-6006

Counsel to the Ad Hoc Senior Noteholders Committee and the Purchaser

**14.18. *Filing of Additional Documents.***

On or before substantial consummation of the Plan, the Debtors shall file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan and any such agreements or other documents relating specifically to the terms and conditions of the Plan shall be in form and substance acceptable to the Debtors and to the Purchaser (solely as such terms and conditions relate to the Specified Matters).

**14.19. *Reservation of Rights.***

Except as expressly set forth herein, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of this Plan, any statement or provision contained herein, or the taking of any action by the Debtors with respect to this Plan shall be or shall be deemed to be, an admission or waiver of any rights of the Debtors with respect to any Claims or Interests prior to the Effective Date.

[The remainder of this page is intentionally left blank.]

Dated: March 8, 2010  
Wilmington, Delaware

Respectfully submitted,

RATHGIBSON, INC.

By: 

Michael Schwartz  
President, Chief Executive Officer and Chief  
Operating Officer

GREENVILLE TUBE COMPANY

By: 

Michael Schwartz  
President

RGCH HOLDINGS CORP.

By: 

Michael Schwartz  
President and Chief Executive Officer

RG TUBE HOLDINGS LLC

By: 

Michael Schwartz  
President and Chief Executive Officer

Counsel:

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Co-Counsel for the Debtors  
and Debtors in Possession

- and -

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Matthew B. Lunn, Esq.  
The Brandywine Building  
1000 West Street, 17th Floor  
Wilmington, Delaware 19801  
(302) 571-6600  
Co-Counsel for Debtors  
and Debtors In Possession

**Exhibit 2**

**Liquidation Analysis**

## Liquidation Analysis

### INTRODUCTION

Section 1129(a)(7) of the Bankruptcy Code requires that each holder of an impaired Claim or Interest either: (a) accepts the Plan; or (b) receives or retains under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive or retain if the Debtor was liquidated under chapter 7 of the Bankruptcy Code on the Effective Date (the "best interests test").

The Liquidation Analysis reflects the estimated cash proceeds, net of liquidation-related costs that would be realized if the Debtors were to be liquidated in accordance with Chapter 7 of the Bankruptcy Code. Underlying the Liquidation Analysis are a number of estimates and assumptions that, although developed and considered reasonable by the Debtors' management, and by the Debtors' professionals, are inherently subject to significant business, economic and competitive uncertainties and contingencies beyond the control of the Debtors, its management and advisors, and are also based upon assumptions with respect to certain liquidation decisions which could be subject to change. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE VALUES REFLECTED IN THE LIQUIDATION ANALYSIS WOULD BE REALIZED IF THE DEBTORS WERE, IN FACT, TO UNDERGO SUCH A LIQUIDATION, AND ACTUAL RESULTS COULD VARY MATERIALLY FROM THOSE SHOWN HERE.

The Liquidation Analysis was prepared by management of the Debtors, with the assistance of Jefferies and other of the Debtors' professionals. The Liquidation Analysis is based on the Debtors' projected balance sheet as of May 31, 2010.

It is also assumed that the liquidation of the Debtors would commence under the direction of a Court-appointed chapter 7 trustee and would continue for a period of nine months, during which time all of the Debtors' major assets would either be sold or conveyed to the respective lien holders, and the cash proceeds, net of liquidation-related costs, would then be distributed to creditors. Although the liquidation of some assets might not require nine months, other assets would be more difficult to collect or sell, thus requiring a substantially longer liquidation period. The liquidation period would allow for the collection of receivables, the orderly sale of fixed assets, and the orderly wind-down of daily operations. For certain assets, liquidation values were assessed for general classes of assets by estimating the percentage recoveries that a trustee might achieve through an orderly disposition.

The Liquidation Analysis presents the liquidation of the Debtors on a consolidated basis. Proceeds realized from each Debtor are aggregated in a common distribution source. For purposes of distribution, each and every Claim asserted against or Interest in any Debtor is presumed to be entitled to a distribution from the aggregated proceeds. Any Claim against a Debtor and any guarantee thereof executed by any other Debtor and any joint or several liability of any of the Debtors are deemed to have one right to a distribution from the aggregated proceeds. If separate liquidation analyses were to be presented for each of



RathGibson, Inc., Greenville Tube Company, RG Tube Holdings LLC, and RGCH Holdings Corp., the analysis would show none of these companies would have funds available for distribution to unsecured creditors.

#### ESTIMATE OF NET PROCEEDS

Liquidation values have been estimated based upon the percentage of recovery of the gross book value that a chapter 7 trustee might achieve or, in certain circumstances, recent appraised values.

#### ESTIMATE OF COSTS

Proceeds from a liquidation would be reduced by administrative costs incurred during the liquidation period. These costs would include fees payable to a trustee in bankruptcy and professional advisors to the trustee, salaries, occupancy, costs of removing machinery and equipment, costs of shutting plants and costs of the claims reconciliation and adjudication process.

#### DISTRIBUTION OF NET PROCEEDS

Under a chapter 7 liquidation, all secured claims are required to be satisfied from the proceeds of the collateral securing such claims before any such proceeds would be distributed to any other creditors. This analysis assumes the application of the rule of absolute priority of distributions with respect to the remaining proceeds of the Debtors. Under that rule, no junior creditor receives any distribution until all senior creditors are paid in full. To the extent that proceeds remain after satisfaction of all secured claims, the proceeds would first be distributed to the holders of Administrative Claims,<sup>1</sup> then to Priority Claims and finally to the Unsecured Claims.

It is likely that the pool of General Unsecured Claims would be significantly larger in a chapter 7 liquidation than in a chapter 11 restructuring, which would dilute any potential recoveries to other holders of General Unsecured Claims. No attempt has been made to estimate additional General Unsecured Claims, including claims that would arise as a result of rejection damages, that may result under a chapter 7 liquidation.

The Liquidation Analysis assumes that there are no recoveries from the pursuit of any potential preferences, fraudulent conveyances, or other causes of action and does not include the estimated costs of pursuing those actions.

The following Liquidation Analysis should be reviewed in conjunction with the accompanying notes.

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings given to them in the Plan.

## NOTES TO LIQUIDATION ANALYSIS

### *Note A – Organization and Ownership*

This analysis assumes the liquidation of, RG Tube Holdings LLC, RGCH Holdings Corp., RathGibson, Inc., Greenville Tube Company and their subsidiaries.

### *Note B - Book Values at May 31, 2010*

Unless stated otherwise, the book values used in the Liquidation Analysis are the unaudited net book values as of May 31, 2010.

### *Note C - Cash and Cash Equivalents*

The Liquidation Analysis assumes that operations during the liquidation period would not generate additional cash available for distribution except for net proceeds from the disposition of non-cash assets. It is assumed that cash and cash equivalents of approximately \$21.7 million projected to be in the Debtors' accounts are fully collectible.

### *Note D - Accounts Receivable*

The analysis of accounts receivable assumes that a chapter 7 trustee would retain certain existing staff of the Debtors to handle an aggressive collection effort for outstanding trade accounts receivable. Collections during a liquidation of the Debtors may be significantly compromised as customers may attempt to set off outstanding amounts owed to the Debtors against alleged damage and breach of contract claims. The liquidation value of accounts receivable was estimated by applying a recovery factor consistent with the Debtors' experience in collecting accounts receivable and the expectation of additional attempts to set off. The estimate also considers the inevitable difficulty a liquidating company has in collecting its receivables and any concessions that might be required to facilitate the collection of certain accounts. Estimated recoveries are from 65% to 75% of net accounts receivable.

### *Note E – Inventories*

Inventories consist principally of stainless steel, titanium and carbon tubing and pipe and other raw materials necessary to produce them. In April 2009, a third party appraiser provided an appraisal of the Debtors' inventory for the benefit of the Debtors then prepetition secured lender. Based on this appraisal, the Debtors estimated the projected gross recoveries from the orderly liquidation of inventory based upon April 2009 inventory levels was approximately \$30.5 million. In order to estimate the projected gross recoveries currently, the Debtors have utilized the same implied recovery rates from the April 2009 report (as a percentage of gross inventory) and applied these rates to the current respective inventory levels. Based upon these implied recovery rates, the Debtors estimate the projected gross recoveries from the orderly liquidation of inventory to be approximately \$25.0 million. Costs of sale as estimated in the appraisal have been incorporated into the costs associated with liquidation described below.

*Note F—Other Current Assets*

Other current assets include prepaid payroll, prepaid taxes, prepaid insurance, prepaid rent, income taxes receivable, deferred taxes, and other prepaid expenses and deposits. The Debtors estimate that these assets will have no value in a liquidation.

*Note G—Property, Plant & Equipment, Net*

In September 2009, a third party appraiser provided an appraisal of the Debtors' machinery and equipment on behalf of a potential secured lender. The estimated recovery of the Debtor's machinery and equipment was \$13.6 million based upon the values prescribed in the September 2009 appraisal report. We have relied upon this appraisal for the purposes of estimating liquidation value of the Debtor's machinery and equipment. Costs of sale as estimated in the appraisal have been incorporated into the costs associated with liquidation described below. The Liquidation Analysis does not include any value associated with equipment held under capital leases. Equipment held under such leases is assumed to be returned to the respective lessor in satisfaction of their secured claim.

For the purposes of this analysis, it is assumed that the Debtors' property and equipment (primarily computers, office equipment, fixtures and fittings), which is not included in the aforementioned appraisal, would have a liquidation value range of 5%-10% of gross book value.

*Note H—Goodwill and Other Intangibles*

Goodwill and Other Intangibles includes goodwill, tradenames, proprietary technology and customer relationships. It is estimated that these assets would have no value in a chapter 7 liquidation.

*Note I—Other Non-Current Assets*

Other non-current assets include deferred financing costs. It is estimated that these assets will have no value in a Chapter 7 liquidation.

*Note J—Costs Associated with Liquidation*

Corporate payroll and certain operating costs during the liquidation are based upon the assumption that certain corporate functions would be retained to oversee the liquidation process. The remaining staff would also be needed to maintain and close the accounting records and to complete certain administrative tasks including payroll and tax forms and records. These costs are assumed to range from \$150,000 to \$300,000.

Estimated costs for liquidating plant and machinery and inventory are based upon the appraisals referred to above. Certain operating costs, including plant employee costs and liquidation commissions have been assumed in these appraisals. These costs total approximately \$5.9 million.

Chapter 7 trustee fees include those fees associated with the appointment of a chapter 7 trustee in accordance with section 326 of the Bankruptcy Code. Trustee fees are calculated at 3% of the gross proceeds of the liquidation (excluding cash).

Chapter 7 professional fees include legal, and accounting fees expected to be incurred during the nine month liquidation period and not already deducted from liquidation values. Professional fees for legal, accounting and other staff to assist the estates and the chapter 7 trustee with the process are assumed to range from \$1 million to \$1.5 million.

*Note K – Secured Claims*

For purposes of the Liquidation Analysis, management has assumed that Secured Claims consist of the estimated amount owed under the DIP Credit Agreement, the IRB and any accrued interest. Total Secured Creditor Claims are estimated to be \$81.7 million, including the amount owed under the DIP Credit Agreement, IRB and pre petition accrued interest thereon.

*Note L – Administrative and Priority Claims*

Administrative and priority claims include professional fee claims, estimated accrued compensation and benefit amounts, up to the maximum of \$10,950 per employee as provided under section 507(a)(4), claims entitled to priority under section 503(b)(9) of the Bankruptcy Code, the IRB and accrued interest and estimated Priority Tax Claims. Professional fees assume current monthly rates for all professionals currently involved in the Debtors chapter 11 cases for a period of two months plus unpaid holdback amounts. Total Administrative and Priority Claims are estimated to be \$21.1 million.

*Note M – Unsecured Claims*

For purposes of the Liquidation Analysis, management has assumed that general unsecured claims will consist of estimated Senior Notes Claims and General Unsecured Claims. The Liquidation Analysis does not attempt to estimate potential additional General Unsecured Claims that likely would arise as a result of the termination of the Debtors' business. Such additional claims likely would result from a cessation of operations as contemplated herein and would likely be substantial in amount. Senior Note Claims and General Unsecured Claims are assumed to be paid on a pro rata basis from the net liquidation proceeds available, if any, after the payment of all other Claims.

**RathGibson, Inc., et al.**

Hypothetical Liquidation Analysis

Consolidated Balance Sheet

(\$ US)

|   | Book Value<br>(Unaudited)<br>5/31/2010 | Notes | Assumed Recovery Percentage |        | Estimated Liquidation Value |               |
|---|--|-------|-----------------------------|--------|-----------------------------|---------------|
|   |  |       | Low                         | High   | Low                         | High          |
| <b>CURRENT ASSETS:</b>                            |  |       |                             |        |                             |               |
| Cash  | \$ 21,207,000                          | C     | 100.0%                      | 100.0% | \$ 21,207,000               | \$ 21,207,000 |
| Accounts Receivable, Gross                        | 26,420,300                             |       |                             |        |                             |               |
| Less: Reserve for Bad Debts                       | (181,000)                              |       |                             |        |                             |               |
| Net Accounts Receivable                           | 26,239,300                             | D     | 65.0%                       | 75.0%  | \$ 17,055,545               | \$ 19,679,475 |
| Inventories                                       |  |       |                             |        |                             |               |
| Raw Materials                                     | 31,280,300                             | E     | 46.8%                       | 46.8%  | \$ 14,659,180               | \$ 14,659,180 |
| Work-in-Process                                   | 3,330,900                              | E     | 45.9%                       | 45.9%  | 1,528,883                   | 1,528,883     |
| Finished Goods                                    | 13,173,000                             | E     | 67.2%                       | 67.2%  | 8,852,256                   | 8,852,256     |
| Total Inventory, Gross                            | 47,784,200                             |       | 52.4%                       | 52.4%  | 25,020,320                  | 25,020,320    |
| Prepaid Expenses and Other                        | 2,884,100                              | F     | 0.0%                        | 0.0%   | -                           | -             |
| Refundable Income Taxes                           | 2,498,000                              | F     | 100.0%                      | 100.0% | 2,498,000                   | 2,498,000     |
| Deferred Income Taxes                             | 212,900                                | F     | 0.0%                        | 0.0%   | -                           | -             |
| Total Current Assets                              | 100,825,500                            |       |                             |        |                             |               |
| <b>PROPERTY, PLANT AND EQUIPMENT, NET:</b>        |  |       |                             |        |                             |               |
| Land and land improvements                        | -                                      | G     | 0.0%                        | 0.0%   | -                           | -             |
| Buildings and structures                          | -                                      | G     | 0.0%                        | 0.0%   | -                           | -             |
| Leasehold improvements                            | 848,300                                | G     | 0.0%                        | 0.0%   | -                           | -             |
| Machinery and equipment                           | 29,975,400                             | G     | 45.3%                       | 45.3%  | 13,566,300                  | 13,566,300    |
| Office furniture and fixtures                     | 743,100                                | G     | 5.0%                        | 10.0%  | 37,155                      | 74,310        |
| Construction in progress                          | 1,752,300                              | G     | 0.0%                        | 0.0%   | -                           | -             |
| Property, Plant and Equipment, Gross              | 33,319,100                             | G     | 40.8%                       | 40.9%  | 13,603,455                  | 13,640,610    |
| Less Accumulated Depreciation                     | (744,400)                              |       | 0.0%                        | 0.0%   | -                           | -             |
| Property, Plant and Equipment, Net                | 32,574,700                             | G     | 41.8%                       | 41.9%  | 13,603,455                  | 13,640,610    |
| <b>OTHER ASSETS:</b>                              |  |       |                             |        |                             |               |
| Goodwill  | 1,379,500                              | H     | 0.0%                        | 0.0%   | -                           | -             |
| Intangible Assets, Gross                          | 18,783,600                             | H     | 0.0%                        | 0.0%   | -                           | -             |
| Deferred Financing Costs and Other                | 1,719,900                              | I     | 0.0%                        | 0.0%   | -                           | -             |
| Total Other Assets                                | 21,883,000                             |       |                             |        |                             |               |
| Total Assets                                      | 155,283,200                            |       |                             |        |                             |               |
| <b>Preliminary Liquidation Value Range</b>        |  |       |                             |        |                             |               |
| Costs Associated with Liquidation                 |  |       |                             |        | \$ 76,886,320               | \$ 79,547,405 |
| Net Estimated Proceeds Available for Distribution |  |       |                             |        | 9,462,990                   | 8,733,157     |

**RathGibson, Inc., et al.**

**Hypothetical Liquidation Distribution Summary**  
(*\$Millions*)

|  | Estimated<br>Liquidation Value |                  |
|--|--------------------------------|------------------|
|  | Low                            | High             |
| Net Estimated Proceeds Available for Distribution                  | \$67.4                         | \$70.8           |
| Less: Secured Credit Facilities                                    | \$81.7<br>(14.3)               | \$81.7<br>(10.9) |
| <b>Hypothetical Recovery to Secured Claims</b>                     | <b>82.5%</b>                   | <b>86.7%</b>     |
| Proceeds Available After Secured Claims                            | \$0.0                          | \$0.0            |
| Less: Administrative and Priority Claims:                          | 21.2<br>(21.2)                 | 21.2<br>(21.2)   |
| <b>Hypothetical Recovery to Administrative and Priority Claims</b> | <b>0.0%</b>                    | <b>0.0%</b>      |
| Proceeds Available after Administrative and Priority Claims        | 0.0                            | 0.0              |
| Less Total Unsecured Claims  | \$209.3                        | \$209.3          |
| Unsecured Debt - Senior Unsecured Notes                            |                                |                  |
| General Unsecured Claims <sup>(3)</sup>                            | 6.6                            | 6.6              |
| <b>Total Unsecured Claims</b>                                      | <b>\$215.9</b>                 | <b>\$215.9</b>   |
| Hypothetical Recovery to Unsecured Claims                          | 0.0%                           | 0.0%             |
| <b>Net Estimated Deficiency to Unsecured Claims</b>                | <b>(\$215.9)</b>               | <b>(\$215.9)</b> |

**Exhibit 3**

**Disclosure Statement Order (without exhibits)**

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

-----X  
**In re** : **Chapter 11**  
: :  
**RathGibson, Inc., et al.**<sup>1</sup> : **Case No. 09-12452 (CSS)**  
: **Jointly Administered**  
**Debtors.** : :  
: **Re: Docket No. \_\_\_\_**  
: :  
-----X

**ORDER: (I)(A) APPROVING DISCLOSURE STATEMENT; (B) APPROVING  
NOTICE AND OBJECTION PROCEDURES FOR DISCLOSURE STATEMENT;  
(C) ESTABLISHING PROCEDURES FOR SOLICITATION AND TABULATION  
OF VOTES TO ACCEPT OR REJECT PLAN; AND (D) ESTABLISHING  
DEADLINE AND PROCEDURES FOR FILING OBJECTIONS TO PLAN  
AND SALE; AND (II) GRANTING RELATED RELIEF**

Upon consideration of the motion (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (the "Debtors"), for the entry of an order, pursuant to sections 105, 363, 1125 and 1126 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 3016, 3017 and 3020 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 3017-7(a) and 3017-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"): (i) (a) approving the *Disclosure Statement for Second Amended Joint Chapter 11 Plan for RathGibson, Inc., et al.* (including all exhibits thereto and as amended, modified or supplemented from time to time, the "Disclosure Statement"); (b) approving notice and objection procedures in connection with the Disclosure Statement; (c) establishing procedures for solicitation and

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<sup>1</sup> The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Greenville Tube Company (2689); (ii) RathGibson, Inc. (3283); (iii) RG Tube Holdings LLC (4080); and (iv) RGCH Holdings Corp. (9683). The Debtors' executive headquarters' address is 475 Half Day Road, Suite 210, Lincolnshire, Illinois 60069.

<sup>2</sup> Capitalized terms not otherwise defined herein have the meanings ascribed to such terms in the Motion.



tabulation of votes to accept or reject the *Second Amended Joint Chapter 11 Plan for RathGibson, Inc., et al.* (including all exhibits thereto and as the same may be further amended, modified or supplemented from time to time, the “Plan”), including: (i) scheduling the hearing on the confirmation of the Plan, including approval of the Sale of the Purchased Assets, free and clear of all liens, claims, interests, charges or other encumbrances (other than permitted encumbrances) (the “Confirmation Hearing”), (ii) approval of the form and manner of the Solicitation Package, (iii) establishing the Voting Record Date and the approval of procedures for distribution of the Solicitation Packages to holders of Claims and Interests, (iv) approving the forms of ballots, (v) establishing the deadline by which claimants must submit Ballots, and (vi) approving the proposed procedures for vote tabulation; and (d) establishing the deadline and procedures for filing objections to confirmation of the Plan and approval of the Sale;

**IT IS HEREBY FOUND AND DETERMINED THAT:**

A. Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when applicable. See Bankruptcy Rule 7052.

B. The Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334. The relief requested in the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Due and proper notice of the Motion and the relief sought therein has been given under the circumstances, such notice complied with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and no other or further notice is required except as set forth herein with respect to the Auction and Confirmation Hearing. A

reasonable opportunity to object or be heard regarding the relief provided herein has been afforded to parties-in-interest.

D. The Ballots, including the Master Ballots, attached hereto as Exhibits [\_\_\_\_], respectively, are consistent with Official Form No. 14, adequately address the particular needs of these cases, and are appropriate for each Class of Claims and Interests entitled to vote to accept or reject the Plan.

E. Ballots need not be provided to holders of unimpaired Claims in Class 1 (Priority Non-Tax Claims), Class 2 (Other Secured Claims), and Class 3(a) (Prepetition Secured Credit Agreement Claims), because the holders of such Claims are conclusively deemed to have accepted the Plan.

F. Ballots need not be provided to holders of impaired Interests in Class 3(c) (Existing Rath Interests), Class 4(c) (Existing Greenville Interests), or Class 5(c) (Existing RGCH Interests), because the Plan provides that the holders of such Interests, as Debtors and Plan proponents, have consented to their treatment under the Plan, and thus, are deemed to have accepted the Plan.

G. The voting instructions and procedures attached to the Ballots and Master Ballots provide for a fair and equitable voting process and are consistent with section 1126 of the Bankruptcy Code and the applicable Bankruptcy Rules.

H. The procedures associated with the Ballots with respect to a party's right to voluntarily grant the releases contained in Section 12.6 of the Plan and the related injunction are fair and reasonable.

I. In accordance with Bankruptcy Rule 3017(c), the procedures set forth in the Motion for transmitting Solicitation Packages to holders of Claims and Interests, including Beneficial Owners of loans and securities of the Debtors, are adequate under the circumstances for creditors to make an informed decision to accept or reject the Plan.

J. The contents of the Solicitation Packages and Non-Voting Creditor Notice, as set forth in the Motion, comply with Bankruptcy Rules 2002 and 3017 and constitute sufficient notice to all interested parties including, without limitation, holders of Claims against and Interests in the Debtors.

K. The combination of direct and publication notice of the Plan and Confirmation Hearing, as set forth in the Motion, satisfies the requirements of due process with respect to all known and unknown creditors of the Debtors.

**NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED as set forth herein.
2. [All objections filed in response to the Motion are resolved as set forth herein and to the extent not resolved, are hereby overruled.]
3. The Disclosure Statement is approved as containing adequate information within the meaning of section 1125 of the Bankruptcy Code.
4. Except as provided in paragraph 5 below, the Debtors shall mail or caused to be mailed to holders of Claims against and Interests in each of the Debtors entitled to vote on the Plan on or before five business days from the date of entry of this Order, a Solicitation Package containing: (i) the Confirmation Hearing Notice, substantially in the form annexed hereto as Exhibit A, which shall detail: (a) the Court's approval of the Disclosure Statement, (b) the Voting Deadline, (c) a summary of the treatment of Claims and Interests under the Plan,

(d) the date, time and location of the Confirmation Hearing, and (e) the Confirmation Objection Deadline (defined below); (ii) a copy of the Plan and the Disclosure Statement in .pdf format on a CD-ROM; (iii) the appropriate Ballot and a return envelope; (iv) a copy of the letter from the Creditors' Committee indicating its support of the Plan; and (v) such other information as the Court may direct or approve. The Debtors shall also cause the notice of the Confirmation Hearing, substantially in the form attached hereto as Exhibit B, to be published, subject to applicable submission deadlines, once in one or more publications the Debtors deem appropriate, including but not limited to The New York Times (national edition). The Solicitation Package and the manner of service of the Solicitation Package satisfies the requirements of Bankruptcy Rule 3017(d).

5. Pursuant to Bankruptcy Rule 3017(d), the Debtors are not required to transmit a Solicitation Package to the Unimpaired Creditors. The Debtors shall mail or cause to be mailed to each Unimpaired Creditor, within ten (10) days after the entry of this Order, a Non-Voting Creditor Notice, substantially in the form attached hereto as Exhibit C.

6. With respect to Solicitation Packages to be distributed to holders of Claims and Interests entitled to vote on the Plan in Class 3(b) (solely with respect to those holders of 11.25% senior notes issued by RathGibson only (the "Senior Notes")), Class 4(a) (solely with respect to those holders of guaranty Claims arising under the Senior Notes), and Class 5(a), the Debtors shall distribute or cause to be distributed Solicitation Packages, including Ballots, to record holders of such Claims and Interests, including, without limitation, their representatives (*e.g.*, indenture trustees, brokers, banks, commercial banks, transfer agents, trust companies, dealers, or other agents or nominees) (collectively, the "Voting Nominees" or the "Intermediaries"). Each Voting Nominee shall be entitled to receive reasonably sufficient

numbers of Solicitation Packages, including a Master Ballot and sufficient beneficial ballots (the “Beneficial Ballots”), to distribute to the beneficial owners of the Claims for whom such Voting Nominee acts (collectively, the “Beneficial Owners”). Each Voting Nominee shall forward the Solicitation Package to each Beneficial Owner of Voting Securities for voting and include a return envelope provided by and addressed to the Voting Nominee. Upon written request, the Debtors shall reimburse each Voting Nominee’s reasonable, actual, documented and necessary out-of-pocket expenses associated with the distribution of the Solicitation Packages to the Beneficial Owners of such Claims and the tabulation of the Ballots.

7. The Debtors are authorized to distribute or cause to be distributed Master Ballots to the Voting Nominees in Classes 3(b), 4(a), and 5(a) in accordance with customary procedures.

8. Each Voting Nominee shall: (i) return such results in a Master Ballot prior to the Voting Deadline, (ii) return the original underlying Ballots of the Beneficial Owners; and (iii) retain the copies of the underlying Ballots received from the Beneficial Owners for inspection for a period of one year following the Voting Deadline.

9. Beneficial Owners are required to return their Beneficial Ballots to the Voting Nominee, in a return envelope which shall be provided by and addressed to the Voting Nominee, so that it is received no later than three (3) business days prior to the Voting Deadline, or such other deadline as may be established by the Voting Nominee.

10. [April 9,] 2010 is established as the Voting Record Date (the “Voting Record Date”) for purposes of determining the Claim and Interest holders of the Debtors entitled to receive the Solicitation Package or the Non-Voting Creditor Notice and to vote on the Plan, provided, however, that with respect to transfers of Claims filed pursuant to Bankruptcy Rule

3001, the holder of a Claim as of the Voting Record Date shall be the transferor of such Claim unless the documentation evidencing such transfer was docketed by the Bankruptcy Court on or before twenty-one (21) days prior to the Voting Record Date and no timely objection with respect to such transfer was filed by the transferor.

11. The Garden City Group, Inc. (“GCG” or the “Solicitation Agent,” the “Tabulation Agent” or the “Balloting Agent”) shall tabulate the ballots and certify to the Court the results of the balloting.

12. The Debtors are permitted to dispense with the mailing of Solicitation Packages or Non-Voting Creditor Notice to addresses and entities to which the notice of the Disclosure Statement hearing was returned by the United States Postal Service as undeliverable, unless the Debtors are provided with an accurate address.

13. The Ballots, including the Master Ballots, substantially in the form attached hereto as [ \_\_\_\_\_ ] are approved.

14. All Ballots and Master Ballots must be properly executed, completed and delivered to the Balloting Agent by first class mail in the return envelope provided with the Ballots to: The Garden City Group, Inc., Claims & Noticing Agent for RathGibson, Inc., P.O. Box 9396, Dublin, Ohio 43017-4296; or by overnight or hand delivery, or courier to: The Garden City Group, Inc., Claims & Noticing Agent for RathGibson, Inc., 105 Maxess Road, Melville, New York 11747, so that the Ballots and Master Ballots are received on or before May 11, 2010 at 4:00 p.m. (prevailing Eastern Time) (the “Voting Deadline”). Ballots and Master Ballots cast by facsimile, email or other electronic transmission will not be counted unless approved in advance by the Debtors in writing.

15. The Debtors are authorized to extend the Voting Deadline for one or more creditors and/or interest holders or Class(es) of Claims and/or Interests.

16. For purposes of voting on the Plan, with respect to all holders of Claims against or Interests in the Debtors, the amount of a Claim or Interest used to tabulate acceptance or rejection of the Plan shall be, as applicable:

- a. The Claim amount listed in the Debtors' Schedules, provided that: (i) such Claim is not scheduled as contingent, unliquidated, undetermined or disputed, and (ii) no proof of Claim has been timely filed (or otherwise deemed timely filed by the Court under applicable law);
- b. The noncontingent and liquidated amount specified in a proof of Claim timely filed with the Court or GCG (or otherwise deemed timely filed by the Court under applicable law) to the extent the proof of Claim is not the subject of an objection filed no later than five (5) business days prior to the Voting Deadline (or, if such Claim has been resolved pursuant to a stipulation or order entered by the Court, or otherwise resolved by the Court, the amount set forth in such stipulation or order);
- c. The amount of such Claim temporarily allowed by the Court for voting purposes, pursuant to Bankruptcy Rule 3018(a), provided that a motion is brought, notice is provided and a hearing is held prior to the Confirmation Hearing, in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules;
- d. Except as otherwise provided in subsection (c) hereof, with respect to ballots cast by alleged creditors whose Claims (i) are not listed on the Debtors' schedule of liabilities or (ii) are listed as disputed, contingent and/or unliquidated on the Debtors' schedule of liabilities, but who have timely filed proofs of Claim in unliquidated or unknown amounts that are not the subject of an objection filed before the commencement of the Confirmation Hearing, such ballots shall be counted in determining whether the numerosity requirement of section 1126(c) of the Bankruptcy Code has been met, but shall not be counted in determining whether the aggregate Claim amount requirement has been met; or
- e. The number of units held by an Interest holder as set forth in the Debtors' books and records.

17. The Debtors may object to any Claim or Interest solely for Plan voting purposes by filing with the Court a determination motion (the “Determination Motion”) no later than five (5) business days prior to the Voting Deadline. Responses, if any, to the Determination Motion shall be filed no later than five (5) business days prior to the hearing on the Determination Motion. The Court will conduct a hearing on any Determination Motion at the Confirmation Hearing or such earlier time as may be scheduled by the Court. If a Determination Motion is filed, the ruling by the Court on the Determination Motion shall be considered a ruling with respect to the allowance of the Claim(s) or Interest(s) under Bankruptcy Rule 3018 and such Claim(s) or Interest(s) shall be counted, for voting purposes only, in the amount determined by the Court. The filing of a Determination Motion or a ruling by the Court thereon shall not affect the right or ability of Debtors, upon the Effective Date, to later object to such Claim(s) for any other purposes, including distribution under the Plan.

18. If an objection to a Claim requests that such Claim be reclassified and/or allowed in a fixed, reduced amount, such claimant’s ballot shall be counted in such reduced amount and/or as the reclassified category, unless such claimant files an Estimation Motion (as defined below) in accordance with the provisions of this Order.

19. If a creditor casts a ballot and has timely filed a proof of Claim (or has otherwise had a proof of Claim deemed timely filed by the Court under applicable law), but the creditor’s Claim is the subject of an objection filed no later than five (5) business days before Voting Deadline, the creditor’s ballot shall not be counted, unless such Claim or Interest is temporarily allowed by the Court for voting purposes, pursuant to Bankruptcy Rule 3018(a), after an Estimation Motion (as defined below) is brought by such creditor, notice is provided and a hearing is held prior to the Confirmation Hearing. Notwithstanding the foregoing, if an



objection to a Claim requests that such Claim be reclassified and/or allowed in a fixed, reduced amount, such creditor's ballot shall be counted in such reduced amount and/or as the reclassified category.

20. Creditors or Interest holders seeking to have a Claim or Interest temporarily allowed for purposes of voting to accept or reject the Plan pursuant to Bankruptcy Rule 3018(a) must file a motion (the "Estimation Motion") for such relief no later than on or before [May 4], 2010. The Court will schedule a hearing on such motion for a date prior to the Confirmation Hearing.

21. The following voting procedures and standard assumptions shall be used in tabulating the Ballots:

- a. For purposes of the numerosity requirement of section 1126(c) of the Bankruptcy Code, separate Claims held by a single creditor in a particular class shall be aggregated as if such creditor held one Claim against the Debtors in such class, and the votes related to such Claims will be treated as a single vote to accept or reject the Plan.
- b. Creditors must vote all of their Claims or Interests within a particular Class either to accept or reject the Plan and may not split their vote. Accordingly, an individual ballot or multiple ballots with respect to multiple Claims or multiple Interests within a single Class (as opposed to the Master Ballot) that partially rejects and partially accepts the Plan will not be counted.
- c. Ballots that fail to indicate an acceptance or rejection of the Plan or that indicate both acceptance and rejection of the Plan, but which are otherwise properly executed and received prior to the Voting Deadline, will not be counted.
- d. Only ballots that are timely received with signatures will be counted. Unsigned ballots will not be counted.
- e. Ballots postmarked prior to the Voting Deadline, but received after the Voting Deadline, will not be counted.
- f. Ballots which are illegible, or contain insufficient information to permit the identification of the creditor or Interest holder, will not be counted.

- g. Whenever a creditor or Interest holder casts more than one ballot voting the same Claim or Interest, as applicable, prior to the Voting Deadline, the last valid ballot received prior to the Voting Deadline shall be deemed to reflect the voter's intent and supersede any prior ballots.
- h. If a creditor or Interest holder simultaneously casts inconsistent duplicate ballots with respect to the same Claim or Interest, as applicable, such ballots shall not be counted.
- i. Each creditor shall be deemed to have voted the full amount of its Claim.
- j. Unless otherwise ordered by the Court, questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of ballots shall be determined by the Balloting Agent and the Debtors, which determination shall be final and binding.
- k. If no creditor or Interest holder in a particular class or classes entitled to vote to accept or reject the Plan votes either to accept or reject the Plan, such class or classes shall be deemed to have accepted the Plan.

22. In the event any class of Claims or Interests does not have a holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing, such class or classes will be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such class pursuant to section 1129(a)(8) of the Bankruptcy Code.

23. With respect to tabulation of the Master Ballots and Beneficial Ballots cast by Voting Nominees and Beneficial Owners, the Debtors propose that the amount that will be used to tabulate acceptance or rejection of the Plan will be the principal amount held by such Voting Nominees and Beneficial Owners as of the Voting Record Date.

24. The following additional rules apply to the tabulation of Master Ballots and Beneficial Ballots cast by Voting Nominees and Beneficial Owners:

- a. Votes cast by Beneficial Owners through a Voting Nominee will be applied against the positions held by such entities in the applicable security or loan as of the Voting Record Date, as evidenced by the record and, if applicable, depository listings. Votes submitted by a Voting Nominee, pursuant to the Master Ballots, will not be counted in excess of the Record Amount of such loans or other securities held by such Voting Nominee.
- b. To the extent that conflicting votes or “overvotes” are submitted by a Voting Nominee, the Balloting Agent, in good faith, will attempt to reconcile discrepancies with the Voting Nominees.
- c. To the extent that overvotes on a Master Ballot are not reconcilable prior to the preparation of the vote certification, the Balloting Agent will apply the votes to accept and to reject the Plan in the same proportion as the votes to accept and reject the Plan submitted on the Master Ballots that contained the overvote, but only to the extent of the Voting Nominee’s position in the applicable loan or security.
- d. Where a Beneficial Owner holds its Class 3(b) (solely with respect to the Senior Notes only), 4(a) (solely with respect to those holders of guaranty Claims arising under the Senior Notes), or Class 5(b) securities or loans through more than one Voting Nominee, it must execute a separate Class 3(b), Class 4(a) or Class 5(b) Ballot, respectively, for each block of securities or loans. However, such holder must vote all of its claims in each Class in the same manner, to either accept or reject the Plan. Accordingly, if such holder returns more than one Ballot to more than one Voting Nominee voting different claims within each Class under the Plan and the Ballots are not voted in the same manner, as reflected on such separate Master Ballots, such votes will not be counted.

25. With respect to Interest holders in Class 6(b) (RG Tube Interests), the amount that will be used to tabulate acceptance or rejection of the Plan will be the number of units held by such Interest holders as set forth in the Debtors books and records as of the Voting Record Date.

26. Each individual holder of Claims or Interests, as applicable, in Class 3(b), Class 4(a), Class 5(a), Class 5(b), Class 6(a) and Class 6(b) shall be entitled to only one vote with respect to the holder’s Claims and Interests. In addition, each Voting Nominee shall only submit a single Master Ballot reflecting votes to accept or reject the Plan.

27. Any objection, comment or response to confirmation of the Plan, *including approval of the Sale*, together with any supporting memoranda, must be in writing, served on the parties identified below, and filed with the Court, together with proof of service, such that the foregoing are received by such parties and the Court on or before May 11, 2010 at 4:00 p.m. (prevailing Eastern Time). The Court shall consider only timely filed written objections. All objections not timely filed and served in accordance with the provisions of this Order are hereby deemed waived. Objections to confirmation of the Plan, including approval of the Sale, shall provide proposed language to remedy such objections and shall be served on the following parties: (i) Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019-6099 (Attn: Paul V. Shalhoub, Esq. and Robin Spigel, Esq.), co-counsel to the Debtors; (ii) Young Conaway Stargatt & Taylor, LLP, The Brandywine Building, 1000 West Street, 17th Floor, Wilmington, Delaware 19801 (Attn: Robert S. Brady, Esq. and Matthew B. Lunn, Esq.), co-counsel to the Debtors; (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Jane Leamy, Esq.); (iv) Otterbourg, Steindler, Houston & Rosen, P.C., 230 Park Avenue, New York, New York 10169 (Attn: Jenette A. Barrow-Bosshart, Esq. and Jessica M. Ward, Esq.), co-counsel to the Creditors' Committee; (v) Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 Market Street, Wilmington, Delaware 19899 (Attn: Henry J. Jaffe, Esq. and John H. Schanne II, Esq.), co-counsel to the Committee; (vi) Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, New York 10038 (Attn: Kristopher M. Hansen, Esq. and Jayme T. Goldstein, Esq.), co-counsel to the Stalking Horse Bidder, the Ad Hoc Senior Noteholders Committee and the DIP Lenders; and (vii) Richards Layton & Finger, One Rodney Square, 920 North King Street, Wilmington,

Delaware 19801 (Attn: Daniel J. DeFranceschi, Esq.), co-counsel to the Stalking Horse Bidder, Ad Hoc Senior Noteholders Committee and the DIP Lenders.

28. The Debtors, the Creditors' Committee, and any other party supporting the Plan or the Sale shall be afforded an opportunity to file a response to any objection to confirmation of the Plan or the approval of the Sale, prior to the commencement of the Confirmation Hearing.

29. The Confirmation Hearing (to approve the confirmation of the Plan, including the approval of the Sale) shall be held before this Court on **[May 21, 2010] at [1:00 p.m.] (prevailing Eastern Time)** before the Honorable Christopher S. Sontchi at the United States Bankruptcy Court for the District of Delaware, 824 N. Market St., 5th Floor, Courtroom 6, Wilmington, Delaware 19801, or as soon thereafter as counsel can be heard.

30. The Confirmation Hearing may be adjourned from time to time without further notice other than adjournments announced in open Court or as indicated in any notice of agenda for matters scheduled for hearing filed with the Court.

31. Prior to mailing the Disclosure Statement, Solicitation Packages, or Non-Voting Creditor Notice, the Debtors may fill in any missing dates and other information, correct any typographical errors and make such other non-material, non-substantive changes as the Debtors deem appropriate.

32. The Debtors hereby are authorized and empowered to take such steps and expend such funds as are necessary to implement the terms of this Order.

33. This Court shall retain jurisdiction over all matters related to or arising from the Motion or the interpretation or implementation of this Order.

Dated: \_\_\_\_\_, 2010  
Wilmington, Delaware

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THE HONORABLE CHRISTOPHER S. SONTCHI  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 4**

**Stalking Horse Agreement**

**ASSET PURCHASE AGREEMENT**  
**BY AND AMONG**  
**RATHGIBSON ACQUISITION CO., LLC,**  
**as Purchaser,**  
**and**  
**RG TUBE HOLDINGS LLC,**  
**RGCH HOLDINGS CORP.,**  
**RATHGIBSON, INC., AND**  
**GREENVILLE TUBE COMPANY,**  
**as Sellers**

**Dated as of March 8, 2010**



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## ASSET PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT (as amended, supplemented, amended and restated or otherwise modified from time to time, this "Agreement"), dated as of March 8, 2010 (the "Execution Date"), by and among (a)(i) RG Tube Holdings LLC, a Delaware limited liability company ("RG Tube"), (ii) RGCH Holdings Corp., a Delaware corporation ("RGCH"), (iii) RathGibson, Inc., a Delaware corporation ("RathGibson"), and (iv) Greenville Tube Company, a Delaware corporation ("Greenville" and, together with RG Tube, RGCH and RathGibson, each a "Seller" and, collectively, the "Sellers"), and (b) RathGibson Acquisition Co., LLC, a Delaware limited liability company (together with its successors and permitted assigns, the "Purchaser"). Article 10 contains definitions of certain terms used herein and also provides cross-references to certain terms defined elsewhere in this Agreement.

### RECITALS

WHEREAS, Sellers currently conduct the Business and the Purchaser desires to purchase the Business;

WHEREAS, each of the Sellers is a debtor and debtor-in-possession in those certain bankruptcy cases under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 et seq. (as amended, the "Bankruptcy Code"), filed on July 13, 2009 (the "Filing Date") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") (such bankruptcy cases, the "Chapter 11 Cases"); and

WHEREAS, the Purchaser desires to purchase and assume from the Sellers, and the Sellers desire to sell, transfer and assign to the Purchaser, the Purchased Assets and the Assumed Liabilities in accordance with this Agreement and in accordance with and subject to the Plan and the Confirmation Order, pursuant to sections 105(a), 363, 365, 1123, 1129 and 1146 of the Bankruptcy Code.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Purchaser and each of the Sellers hereby agree as follows:

### ARTICLE 1.

#### PURCHASE AND SALE OF ASSETS; ASSUMPTION OF LIABILITIES

1.1 Purchase and Sale of Assets. Pursuant to sections 105(a), 363, 365, 1123, 1129 and 1146 of the Bankruptcy Code and on the terms and subject to the conditions set forth in this Agreement and the Confirmation Order, the Purchaser shall purchase, acquire and accept from each Seller, and each Seller shall sell, transfer, assign, convey and deliver to the Purchaser, on the Closing Date, all of such Seller's right, title and interest in, to and under, free and clear of all Encumbrances (other than Permitted Encumbrances), all of the assets, properties, rights and interests of any nature, tangible or intangible, real or personal, wherever located, of such Seller related to or used, or held for use, in connection with the operation of the Business, now existing

or hereafter acquired on or prior to the Closing Date, whether or not reflected on the books or financial statements of such Seller, as the same shall exist on the Closing Date, but in all cases excluding the Excluded Assets (as amended or modified by Section 1.5(a), collectively, the "Purchased Assets"), including, without limitation, the following assets, properties, rights and interests:

(a) (i) all Contracts with customers of such Seller (the "Acquired Customers") to which such Seller is a party, and all rights pursuant thereto, including, without limitation, the Material Contracts set forth in part (i) to Section 4.8(a) of the Seller Disclosure Schedule and any other such Contract added as a Purchased Asset in accordance with Section 1.5(a), (ii) any other Contract with customers of such Seller entered into in the Ordinary Course of Business between the Execution Date and the Closing Date that, if entered into by such Seller on or prior to the Execution Date, would not be a Material Contract and (iii) any other Contract with customers of such Seller entered into between the Execution Date and the Closing Date that, if entered into by such Seller on or prior to the Execution Date, would be a Material Contract; provided, that if the execution of any Contract referred to in clause (a)(ii) or clause (a)(iii) above would require the prior written consent of the Purchaser pursuant to Section 8.1(a) or Section 8.1(b), the execution of such Contract has been approved in writing by the Purchaser (the Contracts referred to in this Section 1.1(a), collectively, the "Assumed Customer Contracts");

(b) all Accounts Receivable (including all Inter-Company Receivables);

(c) except as explicitly set forth in Section 1.2(l), all Cash and Cash Equivalents, whether on hand, in transit or in banks or other financial institutions, security entitlements, securities accounts, commodity contracts and commodity accounts and including any cash collateral that is collateralizing any letters of credit, or any obligation with respect thereto;

(d) all Documents used in or relating to the Business or in respect of the Purchased Assets or the Assumed Liabilities, including, without limitation, the Acquired Customers, products, services, marketing, advertising and promotional activities and trade shows and all files, supplier lists, vendor lists, records, literature and correspondence;

(e) (i) all Contracts with suppliers and vendors to which such Seller is a party, and all rights pursuant thereto, including, without limitation, the Material Contracts set forth in part (iii) to Section 4.8(a) of the Seller Disclosure Schedule and any other such Contract added as a Purchased Asset in accordance with Section 1.5(a), (ii) any other Contract with suppliers or vendors of such Seller entered into in the Ordinary Course of Business between the Execution Date and the Closing Date that, if entered into by such Seller on or prior to the Execution Date, would not be a Material Contract and (iii) any other Contract with suppliers or vendors of such Seller entered into between the Execution Date and the Closing Date that, if entered into by such Seller on or prior to the Execution Date, would be a Material Contract; provided, that if the execution of any Contract referred to in clause (e)(ii) or clause (e)(iii) above would require the prior written consent of the Purchaser pursuant to Section 8.1(a) or Section 8.1(b), the execution of such Contract has been approved in writing by the Purchaser (the Contracts referred to in this Section 1.1(e), collectively, the "Assumed Vendor Contracts");

(f) all deposits and all prepaid charges, Taxes and expenses of such Seller, including, without limitation, (i) security deposits with third party suppliers, vendors, service providers or landlords, and lease and rental payments, (ii) rebates, (iii) tenant reimbursements, (iv) prepaid Taxes (including ad valorem Taxes, personal property Taxes and real estate Taxes), and (v) pre-payments, except to the extent that the foregoing relate solely to any Excluded Asset (including a Non-Assumed Contract) or Excluded Liability;

(g) all Equipment, including, without limitation, the Equipment leased pursuant to the leases and subleases for personal property set forth in Section 4.12(a) of the Seller Disclosure Schedule;

(h) all leases and subleases for personal property to which such Seller is a party and used or held for use in, or relating to, the operation of the Business and all of the rights of such Seller to such personal property, including, without limitation, those items leased pursuant to the leases or subleases set forth in Section 4.12(a) of the Seller Disclosure Schedule (the "Assumed Personal Property Leases");

(i) the names "RathGibson", "Greenville Tube" and "Mid-South", the names of the Sellers and, in all cases, any derivations thereof (the "Purchased Names");

(j) all fee or leasehold title to, and all other interests of such Seller in, all real property, together with all improvements, buildings and fixtures located thereon or therein and all rights and appurtenances appertaining thereto, including, without limitation, all leases and subleases for the Leased Real Property set forth in Section 4.13(b)(i) of the Seller Disclosure Schedule and all of such Seller's right, title and interest in and thereto and any other such leases and subleases added as a Purchased Asset in accordance with Section 1.5(a) (such leases and subleases, the "Assumed Real Property Leases" and the underlying Leased Real Property, the "Assumed Leased Real Property");

(k) all Contracts between such Seller and any independent contractors who are not employees of such Seller but who have been retained to render services (i) on behalf of such Seller or (ii) on behalf of third parties where such Seller acts as an intermediary, broker or agent, including, in each case, Contracts with (x) owner-operators, (y) independent sales agents and (z) qualified third-party carriers (collectively, the "Assumed Independent Contractor Contracts");

(l) all Permits and all pending applications therefor and all rights and incidents of interest therein, including, without limitation, the Material Permits (the "Assumed Permits");

(m) all rights under non-disclosure or confidentiality, non-compete, or non-solicitation agreements to which any Seller is a party with current or former directors, officers, employees or agents, or with third parties, including, without limitation, the Acquired Customers and any Potential Bidder;

(n) all rights, claims, credits, causes of action or rights of set off against third parties relating to the Purchased Assets (including, for the avoidance of doubt, those arising under, or otherwise relating to, the Assigned Contracts) or the Assumed Liabilities, including, without limitation, rights under vendors' and manufacturers' warranties, indemnities, guaranties



and avoidance claims and causes of action under the Bankruptcy Code or applicable state Law, including, without limitation, all rights and avoidance claims of such Seller arising under Chapter 5 of the Bankruptcy Code;

(o) any claims, counterclaims, setoffs, rights of recoupment, equity rights or defenses that such Seller may have with respect to any Assumed Liabilities;

(p) except as contemplated by Section 1.2(d), (i) all of such Seller's insurance policies and rights and benefits thereunder (including, without limitation, (A) all rights pursuant to and proceeds from such insurance policies and (B) all claims, demands, proceedings and causes of action asserted by such Seller under such insurance policies relating to any Purchased Asset or Assumed Liability) and (ii) any letters of credit related thereto;

(q) any claim, right or interest of such Seller in or to any refund, rebate, abatement or other recovery for Taxes with respect to the Business, the Purchased Assets or the Assumed Liabilities, together with any interest due thereon or penalty rebate arising therefrom;

(r) all of the Seller Plans and the Assumed Employment Contracts set forth on Schedule 1.1(r), and any associated funding media, assets, reserves, credits and service agreements, and all Documents created, filed or maintained in connection with such Seller Plans (to the extent transferable in accordance with the existing terms and conditions of the applicable Seller Plan) and any applicable insurance policies (collectively, the "Assumed Plans");

(s) (i) all Seller Intellectual Property (collectively, the "Assumed Intellectual Property") and (ii) all Contracts pursuant to which such Seller is granted a license to, or any rights under, any Intellectual Property of any other Person and all Contracts pursuant to which such Seller grants to any other Person a license to, or any rights under, the Seller Intellectual Property (the "Assumed Intellectual Property Contracts");

(t) all other Contracts to which such Seller is a party other than Non-Assumed Contracts (such Contracts, together with the Assumed Customer Contracts, the Assumed Vendor Contracts, the Assumed Personal Property Leases, the Assumed Real Property Leases, the Assumed Independent Contractor Contracts, the Assumed Plans, the Assumed Intellectual Property Contracts and any other Contracts that are included in the definition of Purchased Assets pursuant to Section 1.5(a), but excluding any Non-Assumed Contracts (including any Contracts that are excluded from the definition of Purchased Assets pursuant to Section 1.5(a)), the "Assigned Contracts");

(u) all goodwill and other intangible assets associated with, or relating to, the Business or the Purchased Assets;

(v) all of the shares of capital stock or other equity interests of each of the Foreign Subsidiaries, or securities convertible into or exchangeable or exercisable for any such shares of capital stock or other equity interests (collectively, the "Foreign Subsidiary Stock");

(w) except to the extent that any transfer or assignment is prohibited by applicable Law, all personnel files for Transferred Employees and, to the extent such files relate

to the Purchased Assets or the Assumed Liabilities, all personnel files for any former or current employee of such Seller that is not a Transferred Employee;

- (x) all Inventory; and
- (y) all loans and other Indebtedness payable or owed to such Seller.

1.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement or any of the Ancillary Agreements, in no event shall any Seller be deemed to sell, transfer, assign or convey, and each Seller shall retain all right, title and interest to, in and under the following assets, properties, rights and interests of such Seller (collectively, the “Excluded Assets”):

- (a) all Non-Assumed Contracts;
- (b) all Documents (whether copies or originals) (i) to the extent they relate solely to any of the Excluded Assets or the Excluded Liabilities, or (ii) that such Seller is required by Law to retain and is prohibited by Law from providing a copy thereof to the Purchaser;
- (c) all shares of capital stock or other equity interests of a Seller, or securities convertible into or exchangeable or exercisable for any such shares of capital stock or other equity interests;
- (d) any of such Seller’s director and officer insurance policies, fiduciary policies or employment practices policies (in each case of the foregoing, including any tail policies or coverage thereon), and any of such Seller’s rights, claims, demands, proceedings, causes of action or rights of set off thereunder, other than any of the foregoing maintained or held by such Seller that provides coverage for directors and/or officers of any Person with which such Seller engaged in an acquisition transaction (whether by merger, consolidation or acquisition of stock or assets);
- (e) any avoidance claims or causes of action under the Bankruptcy Code or applicable state Law solely with respect to the Excluded Assets or the Excluded Liabilities, including, without limitation, all rights and avoidance claims of such Seller arising under Chapter 5 of the Bankruptcy Code with respect to the Excluded Assets;
- (f) all claims that such Seller may have against any Person solely with respect to any other Excluded Assets;
- (g) such Seller’s rights under this Agreement and the Ancillary Agreements;
- (h) each of the Seller Plans (other than the Assumed Plans), and any associated funding media, assets, reserves, credits and service agreements, and all Documents created, filed or maintained in connection with such Seller Plans and any applicable insurance policies (collectively, the “Excluded Plans”);
- (i) all Documents (whether copies or originals) relating to formation, qualifications to conduct business as a foreign corporation or other legal entity, arrangements

with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock transfer books, stock ledgers, stock certificates, by-laws and other documents relating to the organization and existence of such Seller as a corporation or other legal entity, as applicable (together with analogous documentation);

(j) the properties and assets set forth on Schedule 1.2(j);

(k) all deposits and all prepaid charges, Taxes and expenses of such Seller solely related to any Excluded Asset (including a Non-Assumed Contract) or Excluded Liability, including, without limitation, (i) security deposits with third party suppliers, vendors, service providers or landlords, and lease and rental payments, (ii) rebates, (iii) tenant reimbursements, (iv) prepaid Taxes (including ad valorem Taxes, personal property Taxes and real estate Taxes), and (v) pre-payments, in each case of clauses (i) through (v), solely related to any Excluded Asset (including a Non-Assumed Contract) or Excluded Liability;

(l) (i) \$720,000.00 of cash held by RG Tube or RGCH (the "RG Tube/RGCH Cash Amount") and (ii) if the Sellers do not obtain the required consents to assume the IRB Loan Agreement and assign the IRB Loan Agreement to the Purchaser, an amount of cash held by Greenville equal to the aggregate amount required to repay or discharge all Indebtedness, amounts or other obligations outstanding under the IRB Loan Agreement (the "IRB Payoff Cash Amount"); provided, that Greenville uses the IRB Payoff Cash Amount to repay or discharge all such Indebtedness, amounts or other obligations on the Closing Date; and

(m) the Purchase Price (other than the Assumed Liabilities).

1.3 Assumption of Liabilities. On the terms and subject to the conditions set forth in this Agreement and the Confirmation Order, the Purchaser shall assume only the following Liabilities of each Seller (collectively, but in all cases excluding the Excluded Liabilities, the "Assumed Liabilities"):

(a) all Liabilities of such Seller under each Assigned Contract (excluding any Cure Costs), arising after the Closing Date and which relate solely to events occurring after the Closing Date (except for Liabilities arising out of any breach or default of the Assigned Contracts on or prior to the Closing Date or arising out of any event that occurs on or prior to the Closing Date which with the passage of time or after giving notice, or both, would constitute or give rise to such a breach or default);

(b) any Cure Costs with respect to any Assigned Contract;

(c) all Liabilities arising from the employment of the Transferred Employees from and after the Closing Date, but solely to the extent such Liabilities relate to events occurring after the Closing Date;

(d) solely to the extent set forth in Section 6.3, all Liabilities for COBRA Continuation Coverage for all current and former employees of the Sellers;

(e) all (i) Liabilities under the Assumed Plans arising after the Closing Date, solely to the extent such Liabilities relate to events occurring after the Closing Date, and

(ii) Liabilities for claims under the RathGibson, Inc. Medical, Dental and Vision Benefit Plan which are (x) incurred by Transferred Employees (and their eligible dependents) prior to the Closing Date, (y) unpaid as of the Closing Date and (z) covered by, and payable in accordance with, the terms of such RathGibson, Inc. Medical, Dental and Vision Benefit Plan;

(f) all Liabilities with respect to (i) unused vacation earned and accrued with respect to the Transferred Employees as of the Closing Date and (ii) earned and accrued wages, salaries, commissions and bonuses accrued in the Ordinary Course of Business with respect to the Transferred Employees as of the Closing Date;

(g) all Liabilities relating to contractual warranty claims of such Seller's customers with respect to the sale or provision of products or services after the Filing Date and on or prior to the Closing Date;

(h) all Liabilities arising out of the conduct of the Business by the Purchaser or the ownership of the Purchased Assets by the Purchaser after the Closing Date to the extent such Liabilities arise out of any matter, occurrence, action, omission or circumstance that first occurred or existed after the Closing Date;

(i) all trade accounts payable (including any obligations owed to customers of such Seller directly related to funds received by such Seller in advance from such customers for which such Seller has future production or service obligations) related to the Purchased Assets that are incurred in the Ordinary Course of Business after the Filing Date and on or prior to the Closing Date;

(j) all Inter-Company Payables;

(k) all Liabilities for the payment of money under the IRB Loan Agreement; provided, however, that if the Sellers do not obtain the required consents to assume the IRB Loan Agreement and assign the IRB Loan Agreement to the Purchaser, the Liabilities under the IRB Loan Agreement shall constitute Excluded Liabilities;

(l) all Alleged Tax Liabilities solely to the extent that the amount thereof is withheld by the Purchaser from the Closing Date Purchase Price pursuant to Section 8.15;

(m) (i) subject to the terms of the Kaplan Release Agreement and only if the Conditions Precedent (as defined in the Kaplan Release Agreement) are satisfied in accordance with the terms of the Kaplan Release Agreement, all Liabilities for the payment of base salary pursuant to Section 2(c) of the Kaplan Separation Agreement and (ii) subject to the terms of the Pudelsky Release Agreement and only if the Conditions Precedent (as defined in the Pudelsky Release Agreement) are satisfied in accordance with the terms of the Pudelsky Release Agreement, all Liabilities for the payment of base salary pursuant to Section 2(c) of the Pudelsky Separation Agreement (it is expressly understood and agreed by the Sellers and the Purchaser that the assumption by the Purchaser of Liabilities under the Kaplan Separation Agreement and the Pudelsky Separation Agreement is governed solely by this Section 1.3(m) and no other clause, term or provision of this Section 1.3 shall govern, describe, enlarge or otherwise affect the assumption by the Purchaser of Liabilities under the Kaplan Separation Agreement and the Pudelsky Separation Agreement); and

- (n) only such other Liabilities expressly set forth on Schedule 1.3(n).

The parties acknowledge and agree that disclosure of any Liability on any Schedule to this Agreement or otherwise shall not create an Assumed Liability or other Liability of the Purchaser or any of its Affiliates, except where such disclosed Liability has been expressly assumed by the Purchaser as an Assumed Liability in accordance with the provisions of this Section 1.3.

1.4 Excluded Liabilities. Except for the Assumed Liabilities set forth in Section 1.3 (which shall, in no event, be Excluded Liabilities), the Purchaser shall not assume, or become liable for the payment or performance of, any Liabilities of any Seller of any nature whatsoever, whether accrued or unaccrued (collectively, the “Excluded Liabilities”), including, without limitation, the following Liabilities, all of which shall remain Liabilities of each Seller:

(a) all Liabilities of such Seller relating to or otherwise arising, whether before, on or after the Closing, out of, or in connection with, any of the Excluded Assets (including, without limitation, the Non-Assumed Contracts);

(b) all Liabilities arising out of or relating to (i) any breaches or defaults of such Seller under this Agreement or any of the Seller Ancillary Agreements or (ii) any amounts to be paid by such Seller under this Agreement or any of the Ancillary Agreements;

(c) except to the extent that any such Liabilities are specifically assumed pursuant to Section 1.3(g), Section 1.3(i) or Section 1.3(n), all Liabilities of such Seller arising out of or relating to services or products of such Seller or its Subsidiaries to the extent such services or products are provided, designed, manufactured or sold on or prior to the Closing Date;

(d) all Liabilities relating to any environmental, health or safety matters (including any Liability under any Environmental Law), arising out of or relating to such Seller’s operation of its business or its leasing, ownership, use or operation of real property on or prior to the Closing Date, no matter when raised;

(e) except to the extent that any such Liabilities are specifically assumed pursuant to Section 1.3(k) (but subject to the proviso set forth in Section 1.3(k)), all Liabilities of such Seller in respect of Indebtedness, whether or not relating to the Business, including, without limitation, Indebtedness arising under the DIP Credit Agreement;

(f) all Liabilities arising out of any breach or default of the Assigned Contracts on or prior to the Closing Date or arising out of any event that occurs on or prior to the Closing Date which with the passage of time or after giving of notice, or both, would constitute or give rise to such a breach or default;

(g) all Liabilities of such Seller to any current, former or prospective shareholder or other holder of equity securities or equity-linked securities of such Seller, including all Liabilities of such Seller related to the right to or issuance of any capital stock or other equity securities;

(h) except to the extent that any such Liabilities are specifically assumed by the Purchaser pursuant to Section 1.3(e) (as limited under Section 6.2) or Section 1.3(f), any and all Liabilities arising under or relating to the Assumed Plans or any of the Seller Plans;

(i) except to the extent that any such Liabilities are specifically assumed by the Purchaser pursuant to Section 1.3(l) or Section 1.3(n), any and all Liabilities of such Seller for Taxes;

(j) all Liabilities of such Seller for pending or threatened Actions against such Seller, any of its assets or properties, the Business and/or such Seller's operations or activities arising out of or relating to any matter, occurrence, action, omission or circumstance that occurred or existed on or prior to the Closing Date;

(k) all Liabilities (whether civil or criminal) occurring, arising out of or relating to acts or omissions of such Seller or its Affiliates, or any of their respective current or former directors, officers, employees, agents or independent contractors, in respect of any claimed violation of any Law at any time;

(l) except to the extent that any such Liabilities are specifically assumed by the Purchaser pursuant to Section 1.3(e) (as limited by Section 6.2), Section 1.3(f) or Section 1.3(m), all Liabilities of such Seller for any and all claims by or on behalf of such Seller's current or former employees relating to periods ending on or prior to the Closing Date, including, without limitation, employment practices, terms and conditions of employment, labor relations, union organizing, employee safety and health, wages and hours, fair labor standards, child labor, employee leaves of absence, unemployment insurance, disability rights or benefits, immigration, plant closings and layoffs, equal employment opportunity, discrimination, harassment, affirmative action (to the extent applicable), breach of contract and wrongful discharge, employee grievances and liability for any pension, profit sharing, deferred compensation (and the funding of any such benefits relating to all income earned by such Seller's current or former employees relating to periods ending on or prior to the Closing Date), workers' compensation or any other employee health, welfare or other benefit plans;

(m) all Liabilities of such Seller under any collective bargaining agreement or any agreement with any labor union; and

(n) all Liabilities for any legal, accounting, investment banking, reorganization, restructuring (including bankruptcy administrative expenses), brokerage or similar fees or expenses incurred by such Seller in connection with, resulting from or attributable to, the transactions contemplated by this Agreement, the Chapter 11 Cases or otherwise.

For the avoidance of doubt, none of the Excluded Liabilities shall be included as Assumed Liabilities, and the Excluded Liabilities shall remain the sole responsibility of and shall be retained, paid, performed and fully discharged by the Sellers.

#### 1.5 Designation of Assigned Contracts; Cure Costs.

(a) On the Execution Date, the Sellers have provided the Purchaser with Schedule 1.5(a) (the "Original Contract & Cure Schedule") which contains a list of each

Contract of the Sellers and the Sellers' good faith estimate of the amount of Cure Costs applicable to each such Contract (and if no Cure Cost is estimated to be applicable with respect to any particular Contract, the amount of such Cure Cost has been designated for such Contract as "\$0.00"). From the Execution Date through (and including) the Designation Deadline, promptly following any changes to the information set forth on the Original Contract & Cure Schedule (including, without limitation, any new Contracts to which any Seller becomes a party and any change in the Cure Cost of any Contract), the Sellers shall provide the Purchaser with a schedule (as such schedule may be amended, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement, the "Contract & Cure Update Schedule") that updates and corrects such information. Anything herein to the contrary notwithstanding, any and all increases to the amount of Cure Costs applicable to any Assigned Contract that are set forth on the Contract & Cure Update Schedule will not increase the amount of Cure Costs applicable to such Assigned Contract as set forth on the Original Contract & Cure Schedule. To the extent permitted by the Bid Procedures Order (it being understood, however, that if not so permitted by the Bid Procedures Order, then the Bid Procedures Order shall be subject to the approval of the Purchaser), the Purchaser may, at any time and from time to time through (and including) the Designation Deadline, include in the definition of Purchased Assets and exclude from the definition of Excluded Assets any Contract of any of the Sellers not otherwise included in the definition of Purchased Assets and require such Seller to give notice to the non-debtor parties to any such Contract of the Sellers' assumption and assignment thereof to the Purchaser and the amount of Cure Costs associated with such Contract; provided, that no such change of the definitions of Purchased Assets or Excluded Assets referred to in this sentence shall reduce or increase the amount of the Purchase Price, except to the extent of any increase in the assumption of the Assumed Liabilities as a result of Contracts being added to the Purchased Assets by the Purchaser pursuant to this Section 1.5(a). To the extent permitted by the Bid Procedures Order (it being understood, however, that if not so permitted by the Bid Procedures Order, then the Bid Procedures Order shall be subject to the approval of the Purchaser), the Purchaser may, at any time and from time to time through (and including) the Designation Deadline, exclude from the definition of Purchased Assets and include in the definition of Excluded Assets, any pre-petition Contract of any of the Sellers otherwise included in the definition of Purchased Assets and require such Seller to give notice to the non-debtor parties to any such pre-petition Contract of the rejection thereof; provided, that no such change of the definitions of Purchased Assets or Excluded Assets referred to in this sentence shall reduce or increase the amount of the Purchase Price, except to the extent of any reduction in the assumption of the Assumed Liabilities as a result of pre-petition Contracts being excluded from the Purchased Assets by the Purchaser pursuant to this Section 1.5(a). To exercise its rights under this Section 1.5(a) to include Contracts in, or exclude Contracts from, the Purchased Assets and the Excluded Assets, as applicable, the Purchaser shall deliver one or more written notices to the Sellers specifying the Contract(s) to be so included or excluded and specifying the requisite additions, deletions or other changes to any applicable Schedule to reflect such inclusion or exclusion. If any Contract is added to (or excluded from) the Purchased Assets and the Excluded Assets as permitted by this Section 1.5(a), then the Purchaser and the Sellers agree to make appropriate additions, deletions or other changes to any applicable Schedule to reflect such addition or exclusion; provided, that no addition, deletion or other change to any Schedule shall increase the amount of any Cure Cost with respect to any Assigned Contract set forth on the Original Contract & Cure Schedule. In addition, if any Contract is added to (or excluded from)

the Purchased Assets and the Excluded Assets as permitted by this Section 1.5(a), the Sellers shall promptly take such steps as are reasonably necessary, including, if applicable, prompt delivery of notice to the non-debtor counterparty to such Contract, to cause such Contract to be assumed by the applicable Seller, and assigned to the Purchaser, on the Closing Date (or excluded under the Confirmation Order and this Agreement). Any Contract that was executed or entered into prior to the Filing Date, but was amended, supplemented or otherwise modified at any time on or after the Filing Date, shall not cease to be a pre-petition Contract on account of such amendment, supplement or modification.

(b) The Sellers shall be responsible for the verification of all Cure Costs for each Assigned Contract and shall use commercially reasonable efforts to establish the proper Cure Costs, if any, for each Assigned Contract prior to the Closing Date.

(c) To the extent that any Assigned Contract requires the payment of Cure Costs in order to be assumed pursuant to section 365 of the Bankruptcy Code, at the Closing, the Cure Costs related to such Assigned Contract shall be paid by the Purchaser, subject to adjustments to the Purchase Price set forth in Sections 2.3 and 2.4; provided, however, that with respect to any Cure Costs that are Undetermined Cure Costs as of the Closing, such Cure Costs shall be paid by the Purchaser pursuant to the provisions of Section 1.5(d). The Purchaser shall not be required to make any payment for Cure Costs for, or otherwise have any Liabilities with respect to, any Contract that is not an Assigned Contract.

(d) If any Assigned Contract requires the payment of Cure Costs in order to be assumed pursuant to section 365 of the Bankruptcy Code, and such Cure Costs will be Undetermined Cure Costs on the Closing Date because a non-debtor counterparty to such Assigned Contract proposed Cure Costs in an amount that is different than the amount of Cure Costs proposed by the Sellers and such difference will not be resolved prior to the Closing Date (each such Assigned Contract, a "Disputed Amount Contract"), then the Sellers shall provide the Purchaser, not less than three (3) Business Days prior to the Closing Date, with a schedule that lists each such Disputed Amount Contract and the amount of Cure Costs that has been proposed by each such non-debtor counterparty (each such amount, with respect to any particular Disputed Amount Contract, less the Cure Costs, if any, scheduled on the Original Contract & Cure Schedule with respect to such Disputed Amount Contract, a "Reserve Amount", and the aggregate amount of all such Reserve Amounts, the "Aggregate Reserve Amount"). The Sellers acknowledge and agree that, at and after the Closing, the Purchaser shall be entitled to reserve and retain the Aggregate Reserve Amount from the amount of the Closing Date Purchase Price, and to hold such Aggregate Reserve Amount in order to satisfy the Purchaser's obligation to pay the Cure Costs for each Disputed Amount Contract as such Cure Costs become Determined Cure Costs. Promptly following each Undetermined Cure Cost applicable to a Disputed Amount Contract becoming a Determined Cure Cost, the Purchaser shall pay such Determined Cure Cost and reduce the Aggregate Reserve Amount by the corresponding amount so paid. After all Undetermined Cure Costs associated with Disputed Amount Contracts have become Determined Cure Costs and have been paid by the Purchaser in accordance with this Section 1.5(d) (the aggregate amount so paid by the Purchaser, the "Post-Closing Cure Costs"), the Purchaser shall promptly pay to (or at the direction of) the Sellers, by wire transfer of immediately available funds, the amount (but only to the extent such amount is greater than zero) equal to (i) the Aggregate Reserve Amount minus (ii) the Post-Closing Cure Costs.



1.6 Post-Closing Assignment of Contracts. With respect to any Contract which is not an Assigned Contract and which has not been rejected by the Sellers pursuant to section 365 of the Bankruptcy Code, upon written notice(s) from the Purchaser after Closing, and in any event, no later than thirty (30) days after Closing, the Sellers shall take such commercially reasonable actions as the Sellers deem reasonably necessary (at the Purchaser's sole cost and expense, including payment by the Purchaser of the Sellers' documented reasonable attorneys' fees and expenses related to such assumption and assignment) to assume and assign to the Purchaser the applicable Contract(s) set forth in the Purchaser's notice(s); provided, that any applicable Cure Cost shall be satisfied by the Purchaser. Notwithstanding anything in this Agreement to the contrary, on the date any Contract is assumed and assigned to the Purchaser pursuant to this Section 1.6, such Contract also shall be deemed an Assigned Contract.

1.7 "As Is" Transaction. THE PURCHASER HEREBY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ARTICLE 4 OF THIS AGREEMENT, THE SELLERS MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE PURCHASED ASSETS OR THE BUSINESS. WITHOUT IN ANY WAY LIMITING THE FOREGOING, THE SELLERS HEREBY DISCLAIM ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE PURCHASED ASSETS. ACCORDINGLY, THE PURCHASER WILL ACCEPT THE PURCHASED ASSETS AT THE CLOSING "AS IS," "WHERE IS," AND "WITH ALL FAULTS."

## ARTICLE 2.

### CONSIDERATION; DEPOSIT; ADJUSTMENTS TO PURCHASE PRICE

2.1 Consideration. The aggregate purchase price for the Purchased Assets is \$93,000,000 (the "Pre-Adjusted Purchase Price") and the assumption of the Assumed Liabilities. The Pre-Adjusted Purchase Price shall be subject to downward adjustment on the Closing Date pursuant to Section 2.3(b), and the aggregate amount, as so adjusted (or not adjusted after application of the provisions of Section 2.3(b)), is referred to herein as the "Closing Date Purchase Price". In addition, the Closing Date Purchase Price shall be subject to downward adjustment after the Closing Date pursuant to Section 2.4(f), and the aggregate amount, as so adjusted (or not adjusted after application of the provisions of Section 2.4(f)), and the assumption of the Assumed Liabilities is referred to herein as the "Purchase Price". The Closing Date Purchase Price shall be paid on the Closing Date in accordance with Section 3.3(a).

#### 2.2 Deposit.

(a) On the Execution Date, the Purchaser and the Sellers have entered into an escrow agreement (as amended, supplemented, amended and restated or otherwise modified from time to time, the "Escrow Agreement") with U.S. Bank National Association, a national banking association (the "Escrow Agent"). Concurrently with the execution and delivery of the Escrow Agreement by the Sellers, the Purchaser and the Escrow Agent, the Purchaser shall deposit \$5,000,000 (including all interest and other earnings accrued thereon the "Initial Deposit") with the Escrow Agent by wire transfer of immediately available funds. In addition,

no later than two (2) Business Days after the date on which the Approval Order is entered by the Bankruptcy Court (but only if the Approval Order is entered by the Bankruptcy Court), the Purchaser shall deposit an additional \$2,500,000 (including all interest and other earnings accrued thereon, the “Additional Deposit” and, once funded, together with the Initial Deposit, the “Deposit”) with the Escrow Agent by wire transfer of immediately available funds. The Escrow Agent shall hold the Deposit in a segregated, interest-bearing account (the “Escrow Account”) pursuant to the Escrow Agreement. All interest or other earnings on amounts held in the Escrow Account pursuant to the Escrow Agreement shall automatically become a part of the Deposit as such interest or earnings accrue.

(b) At the Closing, the Deposit shall (i) be automatically converted into the Purchase Price Adjustment Escrow Amount and (ii) be held in the Escrow Account, on the terms set forth in the Escrow Agreement, as security (A) for amounts to which the Purchaser shall be entitled pursuant to Section 2.4(g), (B) to pay or reimburse costs and expenses pursuant to Section 8.3, (C) to satisfy the Sellers indemnification and other obligations under Section 11.1(a) and (D) for amounts to which the Purchaser shall be entitled pursuant to Section 3.6(b) and amounts to which the Sellers shall be entitled pursuant to Section 3.6(c). If this Agreement is validly terminated prior to the Closing, the Deposit in the Escrow Account shall be released and distributed to the Purchaser or the Sellers in accordance with Section 3.6(b), Section 3.6(c) and/or Section 3.6(d), as applicable.

### 2.3 Closing Date Adjustments to the Purchase Price.

(a) Not less than three (3) Business Days prior to the scheduled Closing Date, the Sellers shall deliver to the Purchaser a certificate (a “Closing Certificate”) signed by the chief financial officer of each Seller, which shall set forth a calculation by the Sellers of the estimated Closing Date Net Working Capital (and each component thereof) (the “Estimated Closing Date Net Working Capital”). At the request of the Purchaser, the Sellers shall consult with the Purchaser and the Purchaser’s accountants, counsel, financial advisors and other Representatives in connection with the preparation of the Closing Certificate and shall permit the Purchaser and the Purchaser’s accountants, counsel, financial advisors and other Representatives to review and, at the expense of the Purchaser, make copies of all documents, schedules or work papers used in the preparation of the Closing Certificate.

(b) The Pre-Adjusted Purchase Price shall be adjusted downwards (if required) at the Closing as follows:

(i) in the event that the Estimated Closing Date Net Working Capital is less than the Base Net Working Capital Value, the Pre-Adjusted Purchase Price shall be decreased on a dollar-for-dollar basis by the total amount by which the Estimated Closing Date Net Working Capital is less than the Base Net Working Capital Value; and

(ii) in the event that the Purchaser pays or has a binding obligation to pay, pursuant to Section 1.5(c), (x) any Cure Cost with respect to any Assigned Contract that is not set forth on the Original Contract & Cure Schedule or (y) any Cure Cost with respect to any Assigned Contract (other than a Disputed Amount Contract) set forth on the Original Contract & Cure Schedule that is in excess of the Cure Cost set forth on the

Original Contract & Cure Schedule for such Assigned Contract (the aggregate amount of such Cure Costs referred to in clauses (x) and (y), the “Additional Closing Date Cure Amount”), the Pre-Adjusted Purchase Price shall be decreased on a dollar-for-dollar basis by the Additional Closing Date Cure Amount.

(c) Anything in this Agreement to the contrary notwithstanding, no adjustment to the Purchase Price made pursuant to Section 2.3(b), Section 2.4(f) or any other provision of this Agreement shall result in an increase to the Purchase Price (it being understood and agreed that the adjustments to the Purchase Price contemplated by Section 2.3(b), Section 2.4(f) and any other provision of this Agreement shall only result in a decrease to the Purchase Price), except to the extent of any increase in the assumption of the Assumed Liabilities as a result of Contracts being added to the Purchased Assets by the Purchaser pursuant to Section 1.5(a).

#### 2.4 Post-Closing Date Adjustments to the Purchase Price.

(a) Within ninety (90) days of the Closing Date, the Purchaser shall deliver to the Sellers a certificate (an “Adjustment Certificate”) signed by the chief financial officer of the Purchaser, which shall set forth a calculation by the Purchaser of the Closing Date Net Working Capital (and each component thereof) (the “Modified Closing Date Net Working Capital”).

(b) The Sellers shall have thirty (30) days following the date of delivery by the Purchaser to the Sellers of the Adjustment Certificate to provide the Purchaser with a written certificate confirming that the Modified Closing Date Net Working Capital as set forth in the Adjustment Certificate is correct (the “Confirmation Certificate”) or notifying the Purchaser in writing of any good faith reasonable objections to the calculation of the Modified Closing Date Net Working Capital as set forth in the Adjustment Certificate (a “Dispute Notice”), setting forth a reasonably specific and detailed description of such objections. During the thirty (30)-day period immediately following the date of delivery by the Purchaser to the Sellers of the Adjustment Certificate, the Sellers shall be permitted to review, at reasonable times and upon reasonable prior written notice, the Purchaser’s documents, schedules or working papers related to the preparation of the Adjustment Certificate and the determination of the Modified Closing Date Net Working Capital.

(c) If the Sellers shall object to the Purchaser’s calculation of the Modified Closing Date Net Working Capital as reflected in the Dispute Notice, the Purchaser and the Sellers shall attempt in good faith to resolve any such objections within fifteen (15) days of the date of receipt by the Purchaser of the Dispute Notice. If the Sellers deliver a timely Dispute Notice, then only those matters that are specified in such Dispute Notice shall be deemed in dispute and all other matters shall be final and binding upon the Purchaser and the Sellers. The Sellers shall be entitled to deliver only one Dispute Notice and no Dispute Notice delivered by the Sellers may be amended, supplemented or otherwise modified after delivery thereof without the prior written consent of the Purchaser.

(d) If the Sellers and the Purchaser shall be unable to resolve any dispute specified in a Dispute Notice within the fifteen (15)-day period referred to in Section 2.4(c), the Sellers and the Purchaser shall submit the dispute to a mutually agreed upon independent

accounting firm (the “Independent Accountant”) for review and resolution of all matters (but only such matters) specified in the Dispute Notice which remain in dispute, and the Independent Accountant shall make a final determination of the Modified Closing Date Net Working Capital to the extent such amounts are in dispute, in accordance with the guidelines and procedures set forth in this Agreement. Each of the Sellers, on the one hand, and the Purchaser, on the other hand, shall, and shall cause their respective officers, directors, employees and Representatives to, provide full cooperation to the Independent Accountant. The Independent Accountant shall (i) act in its capacity as an expert and not as an arbitrator, (ii) limit its review to such items and calculations as were specifically addressed in the Dispute Notice that have not been resolved by the parties and (iii) be instructed to reach its conclusions regarding any such dispute within thirty (30) days after its appointment and provide a written explanation of its decision. In resolving any matters in dispute, the Independent Accountant may not assign a value to any item in dispute greater than the greatest value for such item assigned by the Purchaser, on the one hand, or the Sellers, on the other hand, or less than the smallest value for such item assigned by the Purchaser, on the one hand, or the Sellers, on the other hand. The Independent Accountant’s determination will be based solely on presentations by the Purchaser and the Sellers which are in accordance with the guidelines and procedures set forth in this Agreement (i.e., not on the basis of an independent review). The fees and expenses of the Independent Accountant shall be borne in equal proportions between the Sellers, on the one hand, and the Purchaser, on the other hand.

(e) The “Final Certificate” shall be deemed to be (i) the Adjustment Certificate if the Sellers provide the Purchaser with a Confirmation Certificate within the thirty (30)-day period referred to in Section 2.4(b) (and, in any such case, the Adjustment Certificate shall become the Final Certificate on the date the Sellers provide the Purchaser with a Confirmation Certificate), (ii) the Adjustment Certificate if no Confirmation Certificate or Dispute Notice is delivered by the Sellers within the thirty (30)-day period and otherwise in accordance with the terms specified in Section 2.4(b) (and the Adjustment Certificate shall become the Final Certificate at the expiration of such thirty (30)-day period), or (iii) if a Dispute Notice is delivered by the Sellers within the thirty (30)-day period and otherwise in accordance with the terms specified in Section 2.4(b), the Adjustment Certificate as adjusted by (A) the agreement of the Sellers and the Purchaser and/or (B) the final determination of the Independent Accountant (and the Adjustment Certificate shall become the Final Certificate on the later of the date the Sellers and the Purchaser reach such an agreement and/or the date the Independent Accountant delivers its final determination to the Purchaser and the Sellers). The Final Certificate, together with the calculation of the Modified Closing Date Net Working Capital set forth therein, shall be final and binding on the Sellers and the Purchaser.

(f) Within two (2) Business Days after the date that the Adjustment Certificate becomes the Final Certificate in accordance with Section 2.4(e), the Closing Date Purchase Price shall be adjusted downwards (if required) as follows:

(i) in the event that the Modified Closing Date Net Working Capital set forth in the Final Certificate is less than the lesser of the Base Net Working Capital Value and the Estimated Closing Date Net Working Capital, the Closing Date Purchase Price shall be decreased on a dollar-for-dollar basis by the total amount by which the Modified Closing Date Net Working Capital is less than the lesser of the Base Net Working Capital Value and the Estimated Closing Date Net Working Capital; and

(ii) in the event that the Purchaser pays or has a binding obligation to pay, pursuant to Section 1.5(c), (x) any Cure Cost with respect to any Assigned Contract that is not set forth on the Original Contract & Cure Schedule or (y) any Cure Cost with respect to any Assigned Contract (other than a Disputed Amount Contract) set forth on the Original Contract & Cure Schedule that is in excess of the Cure Cost set forth on the Original Contract & Cure Schedule for such Assigned Contract that is, in the aggregate for all Cure Costs referred to in clauses (x) and (y), in excess of the Additional Closing Date Cure Amount (the aggregate amount of such excess Cure Costs referred to in clauses (x) and (y) over the Additional Closing Date Cure Amount, the “Additional Excess Cure Amount”), the Closing Date Purchase Price shall be decreased on a dollar-for-dollar basis by the Additional Excess Cure Amount.

The date the Closing Date Purchase Price is adjusted downwards as set forth above in this Section 2.4(f) is referred to herein as the “Final Determination Date”.

(g) If the Closing Date Purchase Price is adjusted downwards pursuant to Section 2.4(f), then the Purchaser shall be entitled to deliver to the Escrow Agent a letter instructing the Escrow Agent to pay to the Purchaser the amount of such downward adjustment from the Purchase Price Adjustment Escrow Amount by wire transfer of immediately available funds to an account designated by the Purchaser and the distribution of such amount shall be subject to the terms of the Escrow Agreement. If the Purchase Price Adjustment Escrow Amount available for distribution to the Purchaser is less than the full amount of such downward adjustment, then the Sellers shall be liable and responsible, on a joint and several basis, to pay to the Purchaser (and the Sellers shall pay to the Purchaser) the amount by which the Purchase Price Adjustment Escrow Amount available for distribution to the Purchaser is less than the full amount of such downward adjustment. All payments required to be made by the Sellers pursuant to this Section 2.4(g), shall be made within two (2) Business Days following the Final Determination Date (but subject to the resolution of any dispute with respect to any releases from the Escrow Account relating to any adjustment to the Closing Date Purchase Price contemplated by Section 2.4(f)).

(h) If (i) there is no downward adjustment to the Closing Date Purchase Price pursuant to Section 2.4(f) or (ii) following a downward adjustment to the Closing Date Purchase Price pursuant to Section 2.4(f) and the related distribution to the Purchaser of any portion of the Purchase Price Adjustment Escrow Amount pursuant to Section 2.4(g) there remains any portion of the Purchase Price Adjustment Escrow Amount, then the Sellers shall be entitled to deliver a letter to the Escrow Agent instructing the Escrow Agent to release and distribute to the Sellers the remaining amount of the Purchase Price Adjustment Escrow Amount and the distribution of such amount shall be subject to the terms of the Escrow Agreement; provided, however, that the Sellers shall not instruct the Escrow Agent to release and distribute, and the Escrow Agent shall continue to hold in accordance with the terms of the Escrow Agreement, any portion of the Purchase Price Adjustment Escrow Amount that is subject to a Reserve for any Claim (as such terms are defined in the Escrow Agreement) that has not yet been resolved in accordance with the terms of the Escrow Agreement.

(i) Anything in this Agreement to the contrary notwithstanding, no adjustment to the Purchase Price made pursuant to Section 2.3(b), Section 2.4(f) or any other

provision of this Agreement shall result in an increase to the Purchase Price (it being understood and agreed that the adjustments to the Purchase Price contemplated by Section 2.3(b), Section 2.4(f) or any other provision of this Agreement shall only result in a decrease to the Purchase Price), except to the extent of any increase in the assumption of the Assumed Liabilities as a result of Contracts being added to the Purchased Assets by the Purchaser pursuant to Section 1.5(a).

2.5 Withholding. Notwithstanding anything herein to the contrary, the Purchaser shall be entitled to deduct and withhold from any amounts otherwise payable pursuant to this Agreement to each Seller such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code and the rules and regulations promulgated thereunder, or under any provision of state, local or foreign Tax Law. To the extent that amounts are so withheld by the Purchaser, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to each Seller in respect of which such deduction and withholding was made by the Purchaser.

### ARTICLE 3.

#### CLOSING AND TERMINATION

3.1 Closing. Subject to the satisfaction of the conditions set forth in Section 9.1, Section 9.2 and Section 9.3, or the waiver thereof by the party or parties entitled to waive the applicable condition, the closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of the Purchaser's Counsel at 180 Maiden Lane, New York, New York 10038 (or at such other place as the parties may mutually designate in writing) on the date that is no later than the third (3rd) Business Day following the date on which all of the conditions set forth in Section 9.1, Section 9.2 and Section 9.3 are satisfied or waived by the party entitled to waive the applicable condition (other than (i) conditions that by their nature are to be satisfied at the Closing and (ii) the occurrence of the Effective Date, which occurrence shall happen simultaneously with the Closing). The date on which the Closing is held is referred to in this Agreement as the "Closing Date."

3.2 Closing Deliveries by the Sellers. At the Closing, the Sellers shall deliver to the Purchaser:

(a) a duly executed bill of sale with respect to the Purchased Assets, substantially in the form attached hereto as Exhibit A;

(b) a duly executed assignment and assumption agreement with respect to the Assumed Liabilities, substantially in the form attached hereto as Exhibit B;

(c) a true and correct copy of the Confirmation Order and case docket reflecting that the Confirmation Order is in effect;

(d) a duly executed non-foreign person affidavit of each Seller dated as of the Closing Date, sworn under penalty of perjury and in form and substance required under the Treasury Regulations issued pursuant to Section 1445 of the Code, stating that such Seller is not a "foreign person" as defined in Section 1445 of the Code;

(e) the officer's certificates required to be delivered pursuant to Sections 9.3(a), 9.3(b) and 9.3(c);

(f) physical possession of all of the Purchased Assets capable of passing by delivery with the intent that title in such Purchased Assets shall pass by and upon delivery, provided that the physical presence of any such Purchased Assets at any leased real property that is also included in the Purchased Assets shall be deemed to be so delivered;

(g) with respect to the Foreign Subsidiaries, (i) certificates or other instruments representing all of the Foreign Subsidiary Stock (but only to the extent certificated or that such certificates or instruments exist under applicable Law), duly endorsed in blank or with duly executed stock powers attached or otherwise in form satisfactory to the Purchaser for transfer, (ii) all minute books, stock books and other organizational documents of the Foreign Subsidiaries, including all such documentation required by Law and (iii) if requested by the Purchaser, written resignations, in form and substance reasonably satisfactory to the Purchaser of each director (or comparable person) of the Foreign Subsidiaries effective as of the Closing Date;

(h) such documentation as may be necessary to change the authorized signatories on any bank accounts or powers of attorney relating (directly or indirectly) to the Purchased Assets;

(i) evidence of the required name changes of the Sellers as more fully set forth in Section 8.10;

(j) if the Sellers do not obtain the required consents to assume the IRB Loan Agreement and assign the IRB Loan Agreement to the Purchaser, pay-off letters and lien discharges (or agreements therefor) satisfactory to the Purchaser with respect to all Indebtedness, amounts or other obligations outstanding under the IRB Loan Agreement and the Encumbrances securing such Indebtedness, amounts or other obligations;

(k) such other bills of sale, deeds, endorsements, assignments (including assignments with respect to the Assumed Real Property Leases and the Assumed Intellectual Property), acknowledgments and other good and sufficient instruments of conveyance and transfer, all in form and substance reasonably satisfactory to the Purchaser, that are necessary to vest in the Purchaser all of the right, title and interest of the Sellers in, to and under any or all of the Purchased Assets; and

(l) all other previously undelivered Seller Ancillary Agreements required by this Agreement to be delivered by the Sellers at or prior to the Closing in connection with the transactions contemplated by this Agreement.

3.3 Closing Deliveries by the Purchaser. At the Closing, the Purchaser shall deliver to (or at the direction of) the Sellers:

(a) an amount equal to (i) the Closing Date Purchase Price minus (ii) the Deposit minus (iii) the Aggregate Reserve Amount minus (iv) the Aggregate Alleged Tax Liability Amount, by wire transfer of immediately available funds to the accounts of the Sellers

in accordance with written instructions delivered by the Sellers to the Purchaser at least three (3) Business Days prior to the Closing Date;

(b) a duly executed assignment and assumption agreement substantially in the form attached hereto as Exhibit B;

(c) the officer's certificates required to be delivered pursuant to Sections 9.2(a) and 9.2(b); and

(d) all other previously undelivered Purchaser Ancillary Agreements required by this Agreement to be delivered by the Purchaser at or prior to the Closing in connection with the transactions contemplated by this Agreement.

3.4 Termination of Agreement. This Agreement may be terminated as follows:

(a) by the mutual written consent of the Sellers and the Purchaser at any time prior to the Closing;

(b) by the Purchaser or the Sellers, if the Closing shall not have been consummated on or prior to July 30, 2010 (the "Outside Date"); provided, however, that the right to terminate this Agreement under this Section 3.4(b) shall not be available to the Purchaser or the Sellers, as applicable, if the Purchaser or any Seller is, as applicable, in material breach or violation of any of their respective representations, warranties, covenants or agreements under this Agreement;

(c) by the Purchaser or the Sellers, if there shall be any Law that makes consummation of the transactions contemplated hereby illegal or otherwise prohibited, or there shall be in effect a final non-appealable order of a Governmental Body of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby; it being agreed that the parties hereto shall promptly appeal any adverse determination which is appealable (and pursue such appeal with reasonable diligence);

(d) by the Purchaser, if any Chapter 11 Case is dismissed or converted to a case or cases under Chapter 7 of the Bankruptcy Code, or if a trustee or examiner with expanded powers to operate or manage the financial affairs, the business or the reorganization of any Seller is appointed in any Chapter 11 Case;

(e) by the Purchaser, if (i) the Approval Motion is not filed with the Bankruptcy Court within one (1) Business Day after the Execution Date, (ii) the Approval Order (including approval of the Break-Up Fee, the Reimbursement Amount, the Expense Amount and the Collection Costs) shall not have been entered by the Bankruptcy Court by 11:59 p.m. (New York City time) on April 9, 2010 or (iii) following entry of the Approval Order, the Approval Order shall (A) fail to be in full force and effect, (B) have been reversed, (C) have been stayed and such stay shall continue to be in effect for more than fifteen (15) days, or (D) have been modified or amended in any manner adverse to the Purchaser without the prior written consent of the Purchaser;



(f) by the Purchaser, if the Sellers fail to use commercially reasonable efforts to require that Qualified Bids are due no later than 5:00 p.m. (New York City time) on May 19, 2010;

(g) by the Purchaser, if the Sellers fail to have held and closed the Auction on or prior to 11:59 p.m. (New York City time) on May 28, 2010; provided, that the Purchaser shall not have the right to terminate this Agreement pursuant to this Section 3.4(g) if no Qualified Bids (other than the Stalking Horse Bid) are received pursuant to the Bid Procedures;

(h) by the Purchaser, if (i) the Confirmation Order shall not have been entered by the Bankruptcy Court by 11:59 p.m. (New York City time) on June 1, 2010 or (ii) following entry of the Confirmation Order, the Confirmation Order shall (A) fail to be in full force and effect, (B) have been reversed, (C) have been stayed and such stay shall continue to be in effect for more than fifteen (15) days, or (D) have been modified or amended in any manner adverse to the Purchaser without the prior written consent of the Purchaser;

(i) by the Purchaser or the Sellers, if any Seller has entered into, or shall have publicly announced its intention (including by means of any filings made with the Bankruptcy Court or any other Governmental Body) to enter into, an agreement in principle, letter of intent, memorandum of understanding, definitive agreement or other arrangement, whether binding or non-binding, or whether subject to terms and conditions, with any Person (other than the Purchaser or its Affiliates) with respect to any Alternative Transaction except, subject to the terms of the Bid Procedures, in the event that the entering into such agreement or document, or such announcement, relates to an Alternative Transaction with the Successful Bidder and the Purchaser is the Second-Highest Bidder; provided, however, that the Purchaser shall have the right to terminate this Agreement pursuant to this Section 3.4(i) on or at any time after the twentieth (20th) day following the date which is twenty (20) days after the date of the entry of the Confirmation Order unless the Purchaser becomes the Successful Bidder on or prior to such date;

(j) automatically upon consummation of an Alternative Transaction;

(k) by the Purchaser, if there shall have occurred a Material Adverse Effect;

(l) by the Purchaser, (i) if any Seller shall have breached or failed to perform any of its representations, warranties, covenants or other agreements contained in this Agreement, or if any representation or warranty of any Seller in this Agreement shall have become untrue, and (ii) any such breach, failure to perform or occurrence referred to in clause (i)(A) would result in a failure of any condition set forth in Section 9.3(a), Section 9.3(b) or Section 9.3(c) and (B) is not curable or able to be performed, or, if curable or able to be performed, is not cured or performed prior to the earlier of (x) the Outside Date and (y) twenty (20) days after written notice of such breach, failure or occurrence is given to the Sellers by the Purchaser; provided, that the right of the Purchaser to terminate this Agreement under this Section 3.4(l) shall not be available if the Purchaser is then in material breach of its representations, warranties, covenants or other agreements contained in this Agreement;

(m) by the Sellers, (i) if the Purchaser shall have breached or failed to perform any of its representations, warranties, covenants or other agreements contained in this Agreement, or if any representation or warranty of the Purchaser in this Agreement shall have become untrue, and (ii) any such breach, failure to perform or occurrence referred to in clause (i)(A) would result in a failure of a condition set forth in Section 9.2(a) or Section 9.2(b) and (B) is not curable or able to be performed, or, if curable or able to be performed, is not cured or performed prior to the earlier of (x) the Outside Date and (y) twenty (20) days after written notice of such breach, failure or occurrence is given to the Purchaser by the Sellers; provided, that the right of the Sellers to terminate this Agreement under this Section 3.4(m) shall not be available if any Seller is then in material breach of its representations, warranties, covenants or other agreements contained in this Agreement;

(n) by the Sellers, if all of the conditions set forth in Section 9.1, Section 9.2 and Section 9.3 have been satisfied (other than (i) conditions that by their nature are to be satisfied at the Closing and (ii) the occurrence of the Effective Date, which occurrence shall happen simultaneously with the Closing) or waived in writing and the Purchaser fails to deliver any portion of the Closing Date Purchase Price (other than the Deposit, the Aggregate Reserve Amount and the Aggregate Alleged Tax Liability Amount) at the Closing;

(o) by the Purchaser, if all of the conditions set forth in Section 9.1, Section 9.2 and Section 9.3 have been satisfied (other than conditions that by their nature are to be satisfied at the Closing) or waived in writing and the Sellers fail to consummate the transactions contemplated hereby at the Closing; and

(p) by the Purchaser, if the Sellers fail to pay the Expense Amount in accordance with Section 8.12, which failure continues for five (5) Business Days after the Expense Amount was initially due.

3.5 Procedure Upon Termination. In the event of a termination of this Agreement by the Purchaser or the Sellers, or both, pursuant to Section 3.4, (a) written notice of such termination shall be given promptly by the terminating party to the other parties hereto, specifying the provision hereof pursuant to which such termination is made, and (b) except as set forth in Section 3.6, this Agreement shall thereupon terminate and become void and of no further force or effect, and the consummation of the transactions contemplated by this Agreement shall be abandoned without further action of the parties hereto. Any termination of this Agreement by the Purchaser or the Sellers, or both, pursuant to Section 3.4 shall be effective on the date that written notice of such termination is given by the terminating party to the other parties hereto, and any automatic termination of this Agreement pursuant to Section 3.4(j) shall be effective on the date that an Alternative Transaction is consummated.

### 3.6 Effect of Termination.

(a) In the event that this Agreement is validly terminated as provided herein, then each of the parties shall be relieved of its duties and obligations arising under this Agreement effective as of the date of such termination and such termination shall be without Liability to the Purchaser or the Sellers or any of their respective Affiliates, except as expressly set forth in this Section 3.6. The provisions of Section 3.4, Section 3.5, this Section 3.6 and

Article 12 shall survive any termination of this Agreement and shall remain in full force and effect.

(b) If (i) the Purchaser or the Sellers, as applicable, terminate this Agreement pursuant to Section 3.4(i), (ii) the Purchaser terminates this Agreement pursuant to Section 3.4(o) or (iii) this Agreement terminates automatically pursuant to Section 3.4(j), then (A) the Purchaser shall be entitled to disbursement of the Deposit (including, for the avoidance of doubt, all interest and other earnings accrued and earned thereon) from the Escrow Account and (B) the Sellers shall pay to the Purchaser a fee in the amount of three percent (3.0%) of the Pre-Adjusted Purchase Price (the “Break-Up Fee”) as liquidated damages. In the event this Agreement is terminated pursuant to Section 3.4(b), Section 3.4(c), Section 3.4(d), Section 3.4(e), Section 3.4(f), Section 3.4(g), Section 3.4(h), Section 3.4(i), Section 3.4(j), Section 3.4(k), Section 3.4(l), Section 3.4(o) or Section 3.4(p), then (x) the Sellers shall reimburse the Purchaser for all of the Purchaser’s reasonable documented third party or out-of-pocket fees and expenses (including reasonable documented attorneys’ fees and disbursements) incurred in connection with the negotiation, execution and consummation of this Agreement and the transactions contemplated hereby in a maximum amount of \$1,000,000 (exclusive of the Expense Amount) (the “Reimbursement Amount”), and (y) to the extent the Purchaser is not already entitled to disbursement of the Deposit pursuant to the immediately preceding sentence, the Purchaser shall be entitled to disbursement of the Deposit (including, for the avoidance of doubt, all interest and other earnings accrued and earned thereon). In the event this Agreement is terminated pursuant to Section 3.4(b), Section 3.4(e), Section 3.4(f), Section 3.4(g), Section 3.4(h), Section 3.4(l), or Section 3.4(p), if within six (6) months after the effective date of any such termination any Seller enters into a binding written definitive agreement with any Person, other than the Purchaser or its Controlling Affiliates, with respect to any Alternative Transaction, the Sellers shall pay the Break-Up Fee to the Purchaser as liquidated damages. In the event this Agreement is terminated pursuant to Section 3.4(a), the Purchaser shall be entitled to disbursement of the Deposit (including, for the avoidance of doubt, all interest and other earnings accrued and earned thereon) from the Escrow Account. The parties expressly agree and acknowledge that it would be extremely difficult or impracticable to ascertain the actual damages that would be incurred by the Purchaser in the event of a termination of this Agreement pursuant to the Sections of this Agreement referenced above in this Section 3.6(b) and that the return of the Deposit and the payment of the Break-Up Fee and the Reimbursement Amount, as and if applicable pursuant to this Section 3.6(b), represent the parties’ reasonable estimate of the damages that would be incurred by the Purchaser in the event of any such termination of this Agreement. Without limiting or prejudicing the Purchaser’s rights under Section 12.10 (all of such rights being hereby reserved and unaffected by the terms of this Section 3.6(b) unless this Agreement is validly terminated in accordance with Section 3.4), the Purchaser’s right to receive the Deposit, the Break-Up Fee and the Reimbursement Amount pursuant to this Section 3.6(b) and, to the extent provided in Section 3.6(d), any Collection Costs, shall be the sole and exclusive remedy available to the Purchaser and its Affiliates against the Sellers and the other Seller Parties for any loss or damage suffered as a result of the failure of the transactions contemplated by this Agreement and/or the Ancillary Agreements to be consummated or for a breach or failure to perform under this Agreement or otherwise and upon payment of such amounts, none of the Seller Parties shall have any further Liability relating to or arising out of this Agreement or the transactions contemplated by this Agreement (all such further Liabilities being hereby fully waived, released and forever discharged). The parties expressly agree and acknowledge that the

right of the Purchaser to receive a return of the Deposit and payment of the Break-Up Fee and the Reimbursement Amount as set forth in this Section 3.6(b) (and not the mere obligation of the Sellers to seek approval from the Bankruptcy Court of such right), (x) is actually necessary to preserve the value of the Sellers' estates and (y) is necessary to induce the Purchaser to execute and deliver this Agreement and to enter into the transactions contemplated hereby, and that the Purchaser would not have done so without receiving such right. The Sellers further expressly agree and acknowledge that there is no assurance that the Purchaser will not terminate this Agreement pursuant to Section 3.4 if the Bid Procedures Order does not approve the right of the Purchaser to receive a return of the Deposit and payment of the Break-Up Fee and the Reimbursement Amount as set forth in this Section 3.6(b).

(c) If the Sellers terminate this Agreement pursuant to Section 3.4(m) or Section 3.4(n), then the Sellers shall be entitled to disbursement of the Deposit (including, for the avoidance of doubt, all interest and other earnings accrued and earned thereon) from the Escrow Account as liquidated damages. The parties expressly agree and acknowledge that it would be extremely difficult or impracticable to ascertain the actual damages that would be incurred by the Sellers in the event of a termination of this Agreement pursuant to Section 3.4(m) or Section 3.4(n) and that the Deposit represents the parties' reasonable estimate of the damages that would be incurred by the Sellers in the event of any such termination of this Agreement. Whether or not this Agreement is terminated, the Sellers' right to receive the Deposit from the Escrow Account pursuant to this Section 3.6(c) and, to the extent provided in Section 3.6(d), any Collection Costs from the Purchaser, shall be the sole and exclusive remedy available to the Sellers and their respective Affiliates against the Purchaser and the other Purchaser Parties for any loss or damage suffered as a result of the failure of the transactions contemplated by this Agreement and/or the Ancillary Agreements to be consummated or for a breach or failure to perform under this Agreement or otherwise and upon payment of the Deposit from the Escrow Account, none of the Purchaser Parties shall have any further Liability relating to or arising out of this Agreement or the transactions contemplated by this Agreement (all such further Liabilities being hereby fully waived, released and forever discharged). Without limiting the foregoing, and anything in this Agreement to the contrary notwithstanding, unless the Closing has occurred, the Sellers acknowledge that they may not seek specific performance for any reason to require the Purchaser or the Purchaser Parties to consummate the transactions (or any portion thereof) contemplated by this Agreement or any of the Ancillary Agreements under any circumstance whatsoever and the sole and exclusive remedy of the Sellers and the other Seller Parties for the failure by the Purchaser to consummate such transactions or for any other reason whatsoever shall be to receive the Deposit from the Escrow Account as set forth in (and under the limited circumstances set forth in) this Section 3.6(c) and, to the extent provided in Section 3.6(d), any Collection Costs from the Purchaser.

(d) In the event that this Agreement is terminated pursuant to Section 3.4 and the Sellers or the Purchaser are entitled to receive the Deposit, then the Sellers or the Purchaser may deliver to the Escrow Agent, at any time following the effective date of any such termination, a letter instructing the Escrow Agent to pay to the Sellers or the Purchaser, as applicable, the Deposit from the Escrow Account and the distribution of the Deposit by the Escrow Agent shall be subject to the terms of the Escrow Agreement. In the event that this Agreement is terminated pursuant to Section 3.4 and the Sellers are required to pay to the Purchaser the Break-Up Fee and/or the Reimbursement Amount, then the Sellers shall pay such

amount(s) to the Purchaser in cash, by wire transfer of immediately available funds to an account designated by the Purchaser, within two (2) Business Days following the effective date of any such termination; provided, however, that in the event that the Sellers are required to pay the Break-Up Fee pursuant to the third sentence of Section 3.6(b), the Sellers shall pay the Break-Up Fee within two (2) Business Days following the date any Seller enters into the binding written definitive agreement described in such third sentence of Section 3.6(b). In the event that (i) the Break-Up Fee and/or the Reimbursement Amount is not paid by the Sellers to the Purchaser on or before the date set forth in the two immediately preceding sentences and/or (ii) the Sellers or the Purchaser dispute, in accordance with the terms of the Escrow Agreement, an instruction letter delivered to the Escrow Agent pursuant to the first sentence of this Section 3.6(d) and such dispute is resolved primarily in favor of the party that delivered the instruction letter to the Escrow Agent, then (x) in the case of clause (i), the Purchaser shall also be entitled to immediate reimbursement from the Sellers for all reasonable documented third party or out-of-pocket costs and expenses incurred by the Purchaser to collect such unpaid amounts and (y) in the case of clause (ii), the Purchaser or the Sellers, as applicable, shall also be entitled to immediate reimbursement from the Sellers or the Purchaser, as applicable, for all reasonable documented third party or out-of-pocket costs and expenses incurred by the Purchaser or the Sellers, as applicable, in resolving such dispute and/or collecting the Deposit (in either case, such costs and expenses, the "Collection Costs").

#### ARTICLE 4.

#### REPRESENTATIONS AND WARRANTIES OF THE SELLERS

The Sellers hereby, jointly and severally, make the representations and warranties in this Article 4 to the Purchaser as of the Execution Date and as of the Closing Date (except with respect to representations and warranties made as of a particular date, which shall be deemed to be made only as of such date). Except for the representations and warranties set forth in Sections 4.1, 4.2 and 4.3, each representation and warranty made in this Article IV as to a "Seller" or "Sellers" shall be deemed to include a representation and warranty as to the Foreign Subsidiaries by applying each such representation and warranty *mutatis mutandis* (such that all changes and modifications to the defined terms and other terminology shall be made so that each such representation and warranty can be applied in a logical manner to the Foreign Subsidiaries). Each Section of the Seller Disclosure Schedule is numbered by reference to representations and warranties in a specific Section of this Article 4. Any event, item or matter disclosed in any Section or numbered part of the Seller Disclosure Schedule shall be deemed to be disclosed with respect to every other representation and warranty in this Article 4 to the extent any description of facts regarding the event, item or matter disclosed is adequate so as to make reasonably apparent on its face that such event, item or matter is applicable to such other representations or warranties.

4.1 Corporate Organization and Qualification. Each Seller is a corporation or limited liability company (as applicable), duly incorporated or organized (as applicable), validly existing and in good standing under the Laws of the State of Delaware. Each Seller is qualified and in good standing as a foreign or limited liability company (as applicable) in each jurisdiction where the properties owned, leased or operated by such Seller or the conduct of its Business require such qualification, except where the failure to be so qualified would not, individually or in the

aggregate, reasonably be expected to be adverse in any material respect to such Seller's ability to conduct the Business in the Ordinary Course of Business. Each Seller has all requisite power and authority to own, lease and operate its properties and to carry on the Business as it is now being conducted, subject to the provisions of the Bankruptcy Code. Each Seller has previously made available to the Purchaser true, complete and correct copies of such Seller's certificate of incorporation or formation, bylaws, operating agreement, or any other similar organizational or governing documents of such Seller (all of the foregoing, collectively, the "Seller Organizational Documents").

#### 4.2 Subsidiaries.

(a) Section 4.2(a) of the Seller Disclosure Schedule sets forth the name and jurisdiction of incorporation or organization (as applicable) of each Subsidiary of the Sellers (other than a Subsidiary that is a Seller) (collectively, the "Specified Subsidiaries"). Except as set forth in Section 4.2(a) of the Seller Disclosure Schedule, one or more of the Sellers owns (beneficially and of record) all of the outstanding shares of capital stock or other equity securities (or any securities convertible into, or exercisable or exchangeable for, any such securities) of each of the Specified Subsidiaries. Except for the Specified Subsidiaries, the Sellers do not own or control any direct or indirect equity or other ownership or profits interests of any corporation, partnership, limited liability company or other Person or business. Except as described in Section 4.2(a) of the Seller Disclosure Schedule, no Seller nor any of its Subsidiaries has any Contract to directly or indirectly acquire any equity or other ownership or profits interests in any Person or business.

(b) Each Specified Subsidiary is a corporation, partnership or limited liability company (as applicable), duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization (as applicable). Each Specified Subsidiary has full corporate, partnership or limited liability company (as applicable) power and authority to conduct its business as it is now or currently proposed to be conducted, and to own or use the properties and assets that it purports to own or use. Each Specified Subsidiary is duly qualified or registered to do business as a foreign corporation, partnership or limited liability company (as applicable) and is in good standing under the laws of each jurisdiction in which either the ownership or use of the properties owned or used by it, or the nature of the activities conducted by it, requires such qualification or registration, except where the failure to be so qualified would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to such Specified Subsidiary.

(c) All of the outstanding capital stock or other securities of each Specified Subsidiary directly or indirectly owned or controlled by a Seller have been duly authorized and validly issued and are fully paid and nonassessable and such Seller has good and marketable title to such capital stock or other equity securities, free and clear of all Encumbrances (except for Permitted Encumbrances). There are, and there will be on the Closing Date, no options, warrants, rights or other securities that are or may become exercisable or exchangeable for, convertible into, or that otherwise give any Person any right to acquire shares of capital stock or other securities of any Specified Subsidiary or to receive payments based in whole or in part upon the value of the capital stock of any Specified Subsidiary, whether pursuant to a phantom stock plan or otherwise. There are no Contracts relating to the issuance, grant, sale or transfer of

any equity securities, options, warrants, rights or other securities of any Specified Subsidiary. There are, and there will be on the Closing Date, no outstanding Contracts of any Specified Subsidiary to repurchase, redeem or otherwise acquire any equity securities, options, warrants, rights or other securities of any Specified Subsidiary and no Specified Subsidiary will have granted any registration rights with respect to any of its securities.

4.3 Authority Relative to This Agreement. Except for such authorization as is required from the Bankruptcy Court, each Seller has all requisite power, authority and legal capacity to (a) execute and deliver this Agreement, (b) execute and deliver each of the Seller Ancillary Agreements to be executed by such Seller, and (c) perform its obligations hereunder and under each of the Seller Ancillary Agreements to be executed by such Seller, and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and each of the Seller Ancillary Agreements, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all requisite action on the part of each Seller, including by any action or required approval of the equityholder or equityholders of such Seller. This Agreement has been, and at or prior to the Closing each of the Seller Ancillary Agreements will be, duly and validly executed and delivered by each Seller and (assuming the due authorization, execution and delivery by the other parties hereto and thereto, and the entry of the Approval Order) this Agreement constitutes, and each of the Seller Ancillary Agreements when so executed and delivered will constitute, legal, valid and binding obligations of each Seller, enforceable against such Seller in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at Law or in equity) (the "Bankruptcy Exceptions").

4.4 Conflicts; Consents of Third Parties.

(a) Except as set forth in Section 4.4(a) of the Seller Disclosure Schedule or as permitted by the Confirmation Order, none of the execution and delivery by any Seller of this Agreement or any of the Seller Ancillary Agreements, the consummation of the transactions contemplated hereby or thereby, or compliance by such Seller with any of the provisions hereof or thereof will (i) conflict with, result in a violation of, or default (with or without notice or lapse of time, or both) under, cause additional fees or other payments to be due under, increase, change or modify rights, benefits or obligations under, or give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a benefit under, any provision of (A) any of the Seller Organizational Documents; (B) subject to and assuming entry of the Confirmation Order, any Contract or Permit to which such Seller is a party or by which any of the properties, assets or business of such Seller is bound or subject to, including any Assigned Contract or Assumed Permit; (C) subject to and assuming entry of the Confirmation Order, any order of any Governmental Body applicable to such Seller or any of the properties, assets or business of such Seller, including the Purchased Assets or the Business; or (D) subject to and assuming entry of the Confirmation Order, any applicable Law, other than, in the case of clauses (B), (C) and (D), such conflicts, violations, defaults, fees, payments, increases, charges, modifications, terminations, cancellations, accelerations or losses that would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to such Seller's or the

Purchaser's ability to conduct the Business in the Ordinary Course of Business, or (ii) result in the creation of any Encumbrance (other than a Permitted Encumbrance) upon any of the Purchased Assets or the Business.

(b) Except as set forth in Section 4.4(b) of the Seller Disclosure Schedule, assuming the accuracy of the Purchaser's representations in Section 5.7, no approval, order or Permit from, consent by, or registration, declaration, notification or filing with, any Governmental Body or other Person is required on the part of any Seller in connection with the execution and delivery of this Agreement or any of the Seller Ancillary Agreements, the compliance by such Seller with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby or thereby (including, without limitation, the assumption by the Sellers of the Assigned Contracts and the assignment thereof to the Purchaser), or the taking by such Seller of any other action contemplated hereby or thereby, except for (i) the entry of the Confirmation Order and (ii) such other approvals, orders, Permits, consents, registrations, declarations, notifications or filings, the failure of which to obtain or make would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to such Seller's or the Purchaser's ability to conduct of the Business in the Ordinary Course of Business.

4.5 Absence of Certain Developments. Except (w) for actions taken in connection with the Chapter 11 Cases, (x) as expressly required or permitted by this Agreement, (y) as disclosed on the face of the Unaudited Financial Statements or (z) as set forth in Section 4.5 of the Seller Disclosure Schedule, since June 30, 2009, the Business has been conducted in the Ordinary Course of Business, and none of the Sellers has:

(a) acquired any material assets, tangible or intangible, other than acquisitions of Equipment or Inventory in the Ordinary Course of Business;

(b) sold, leased, transferred or assigned any material assets, tangible or intangible, other than (i) sales of Inventory in the Ordinary Course of Business, or (ii) the disposition of obsolete or immaterial assets not necessary for the conduct of the Business by the Sellers in the Ordinary Course of Business;

(c) accelerated or terminated (other than at its stated expiry date), extended, modified or amended in any material respect, or cancelled any Material Contract, or waived, released or assigned any material rights or claims thereunder;

(d) imposed, suffered or created any Encumbrance (other than Permitted Encumbrances) upon any of the assets or properties of such Seller, tangible or intangible;

(e) incurred or made any capital expenditures in excess of \$100,000 in the aggregate or in excess of \$50,000 as to any individual capital expenditure, except as contemplated by such Seller's capital expenditure budget;

(f) created, incurred, assumed or guaranteed any Indebtedness, other than Indebtedness under the DIP Credit Agreement;



(g) transferred, assigned, abandoned, disposed, permitted to lapse or granted any license or sublicense of, or any rights to use, any rights under or with respect to any Seller Intellectual Property, other than pursuant to license agreements entered into in the Ordinary Course of Business; took any action or knowingly failed to take any action that would reasonably be expected to result in the abandonment, cancellation or unenforceability of any Seller Intellectual Property; or entered into any settlement regarding breach or infringement of any Seller Intellectual Property, or disclosed to any Person (not an employee of the Sellers) any Seller Intellectual Property not theretofore a matter of public knowledge;

(h) experienced any damage, destruction or other casualty loss (whether or not covered by insurance) affecting the tangible assets or properties of such Seller and resulting in an aggregate loss in excess of \$100,000;

(i) agreed to any change in the rate of compensation, commission, bonus or other direct or indirect remuneration payable, or paid any bonus, incentive, retention or other compensation, retirement, welfare, fringe or severance benefit or vacation pay, to or in respect of, any executive officers, directors or Significant Employees of such Seller or any employee of such Seller that would be a Significant Employee after any such change, in each case other than bonuses paid, and increases in base compensation made, in the Ordinary Course of Business;

(j) made any loans, advances or capital contributions to, or investments in, any other Person;

(k) delayed or postponed the payment of undisputed accounts payable or any other undisputed Liabilities of the Business in any material respect (except as required by the Bankruptcy Code);

(l) adopted, made or agreed to (i) any welfare, pension, retirement, profit sharing, incentive compensation or similar plan, program, payment or arrangement for any current or former director, employee or consultant, except pursuant to the existing Seller Plans or (ii) any new employment, severance or change of control agreement;

(m) made any material addition to or modification of any Seller Plan, other than (i) contributions to such plans made in the Ordinary Course of Business or (ii) the extension of coverage to employees of such Seller who became eligible after January 31, 2009;

(n) changed any finance or Tax accounting elections, methods, principles or practices, except insofar as may have been required by a change in GAAP or applicable Law;

(o) (i) made or rescinded any election relating to Taxes, (ii) filed any amended income Tax Return of, or claim for refund for, any Seller or any of its Subsidiaries, or (iii) settled or compromised any material Tax Liability;

(p) encountered any labor union organizing activity, threatened employee strikes, work stoppages, slowdowns or lockouts, or had any adverse change in any material respect in its relations with any Significant Employee, executive officer, Significant Vendor/Supplier or Significant Customer of such Seller;

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(q) terminated or received any notice of termination from any executive officer, director or Significant Employee of such Seller;

(r) suffered or experienced a Material Adverse Effect;

(s) made any distributions or dividends of the assets or properties of such Seller in respect of outstanding securities of the Sellers;

(t) failed to manage working capital of the Business in the ordinary course of business since the Filing Date (including by failing to replenish Inventory in the normal and customary manner consistent with past practices and taking any action or failing to take any action that has the effect of accelerating sales to customers or other revenues, receivables or collections from customers or other Persons that would otherwise be expected to take place or be incurred at a later date, or postpone the payment of any accounts payable);

(u) instituted, settled or agreed to settle any litigation, proceeding or other Action before any court or other Governmental Body;

(v) made any material changes in policies or practices relating to selling practices, returns, discounts or other terms of sale of the products and/or services of the Business, or in respect of the payment of trade accounts payable or other similar Liabilities incurred in connection with the Business;

(w) written off or written down as uncollectible any Accounts Receivable, other than in the Ordinary Course of Business, or written down a material amount of the value of any other assets;

(x) agreed to any limitations on such Seller or any of its Subsidiaries from engaging or competing in any line of business or in any geographic area or location or otherwise with any Person or from soliciting or hiring any Person;

(y) made any material change in the nature of the Business;

(z) failed to pay when due any material (individually or in the aggregate with all other such unpaid Liabilities) Liabilities arising out of the operations of the Business, except with respect to any such Liabilities being contested in good faith and for which adequate reserves have been established in accordance with GAAP;

(aa) amended or changed, as applicable, any of the Seller Organizational Documents;

(bb) canceled or terminated any insurance policy naming such Seller as a beneficiary or a loss payable payee; or

(cc) entered into any Contract or made (in writing, orally or otherwise) any promise or commitment with respect to any of the foregoing.

4.6 Litigation. Except as set forth in Section 4.6 of the Seller Disclosure Schedule, there is no material litigation, action, claim, suit, proceeding, investigation, examination, hearing, arbitration, inquiry, subpoena or audit, whether in law or equity, or whether civil, criminal, regulatory, arbitral or administrative (collectively, "Actions"), pending or, to the Knowledge of the Sellers, threatened against any Seller or any property or asset of any Seller or which could give rise to or increase an Assumed Liability or which seeks to or is reasonably likely to have the effect of preventing the Sellers from consummating the transactions contemplated by this Agreement. Except as set forth in Section 4.6 of the Seller Disclosure Schedule, no Seller is subject to any judgment, decree, injunction, subpoena, order, ruling, writ, assessment or award of any court, arbitration panel or other Governmental Body that relates to the Business, the Purchased Assets or the Assumed Liabilities and for which such Seller has continuing obligations or Liabilities.

4.7 Intellectual Property.

(a) Section 4.7(a) of the Seller Disclosure Schedule sets forth a true, complete and correct list of (i) all of the patents, registered trademarks, registered copyrights, Internet domain names, and applications for any of the foregoing, in each case that constitute the Owned Intellectual Property ("Registered IP") and (ii) a list of all other material Owned Intellectual Property and a list of all Licensed Intellectual Property (except for Intellectual Property licensed pursuant to off-the-shelf software and licenses implied in the sale of such software).

(b) Except as set forth in Section 4.7(b) of the Seller Disclosure Schedule, (i) the Sellers owns all right, title and interest in and to the Owned Intellectual Property, free from any Encumbrances (other than Permitted Encumbrances) and free from any requirement of any present or future royalty payments, license fees, charges or other payments, or conditions or restrictions whatsoever; and (ii) no Action is pending, or to the Knowledge of the Sellers threatened, challenging the validity, enforceability, registration, ownership or use of any Seller Intellectual Property.

(c) To the Knowledge of the Sellers, none of the Sellers nor any of its respective products or services is infringing upon, misappropriating, diluting or otherwise violating, the Intellectual Property of any third party and no Person is infringing upon, misappropriating, diluting or otherwise violating, any Seller Intellectual Property. Except as set forth in Section 4.7(c) of the Seller Disclosure Schedule, there is no pending Action alleging that any Seller or any of its products or services is infringing, misappropriating, diluting or otherwise violating the Intellectual Property rights of any Person, and to the Knowledge of the Sellers, no such Actions are threatened.

(d) The Sellers own or have the right to use the Seller Intellectual Property as used in the conduct of the Business as currently conducted, free and clear from any Encumbrances (other than Permitted Encumbrances and subject to the terms and conditions of any agreement pursuant to which such Seller Intellectual Property was obtained).

(e) To the Knowledge of the Sellers, all Seller Intellectual Property is valid and enforceable and has not been adjudged invalid or unenforceable, in whole or in part, and the

Sellers have paid all renewal, maintenance, and other fees and taxes when due as required to maintain each and every registration and application of Registered IP in full force and effect.

(f) The Sellers have been using appropriate statutory notice or marking in connection with their use of Intellectual Property in the Business and the Sellers use commercially reasonable standards of quality in the provision of all services rendered under or in connection with all trademarks and have taken commercially reasonable measures to insure that all licensees, if any, of the trademarks that are part of Seller Intellectual Property use such adequate standards of quality.

(g) Commercially reasonable steps have been taken to protect the Sellers' rights in the Trade Secrets used in the Business, and any Trade Secrets or confidential information of third parties provided to the Sellers and, without limiting the foregoing, except as set forth in Section 4.7(g) of the Seller Disclosure Schedule, the Sellers have obtained from all employees and consultants who provide or provided services to the Sellers related to the creation, development, modification or ownership of the Trade Secrets used in the Business, executed agreements under which such employees or consultants are or were required to maintain the confidentiality of all Trade Secrets and convey to the Sellers ownership of all inventions and developments conceived or created by them in the course of their work with the Business.

(h) To the Knowledge of the Sellers, the Assumed Intellectual Property together with the other Purchased Assets comprises all the Intellectual Property necessary for the Sellers to conduct and operate the Business in the Ordinary Course of Business.

(i) The IT Assets are adequate in all material respects for their intended use and for the operation of the Business in the Ordinary Course of Business. There has not been any material malfunction with respect to any of the IT Assets since January 1, 2008 that has not been remedied or replaced in all material respects.

#### 4.8 Agreements, Contracts and Commitments; Certain Other Agreements.

(a) Section 4.8(a) of the Seller Disclosure Schedule sets forth the following types of material executory Contracts that are unexpired as of the Execution Date relating to the Business to which a Seller is a party or by which a Seller is bound or any of the Purchased Assets are bound (such Contracts set forth below are collectively referred to as the "Material Contracts"):

(i) Contracts to which any Acquired Customer is a party requiring payments by or to a Seller in excess of \$150,000 during (A) any twelve (12)-month period or (B) during the term of the Contract if such term is less than twelve (12) months;

(ii) Contracts to which any Significant Customer is a party;

(iii) Contracts to which any Significant Vendor/Supplier is a party;

(iv) all Contracts requiring payments by or to a Seller in excess of \$150,000 during (A) any twelve (12)-month period or (B) during the term of the Contract, if such term is less than twelve (12) months;

(v) master agreements, blanket purchase orders or other Contracts which relate to the transportation of Hazardous Materials (other than receipts, bills of lading and trip tickets issued pursuant to such master agreements, purchase orders or other Contracts) and each Contract (including any indemnification arrangement) for the cleanup, abatement or remediation of any environmental condition involving Hazardous Materials;

(vi) employment agreements, consulting agreements, severance agreements, change of control agreements, retention agreements and collective bargaining agreements (and any other Contract with any labor organization, union or association);

(vii) Contracts to which any officer, director, equity holder or Significant Employee of a Seller, or any Affiliate of any such Person, is a party;

(viii) each Contract for the lease, sublease, license or use of any real property or any material Equipment used or held for use in the Business;

(ix) Contracts that (A) limit or restrict a Seller or any of its Affiliates from engaging in any business or other activity in any jurisdiction or (B) create or purport to create any exclusive relationship or arrangement;

(x) Contracts granting to any Person an option or a right of first refusal, first-offer or similar preferential right to purchase or acquire any of the Purchased Assets;

(xi) Contracts for the granting or receiving of a license, sublicense or franchise or under which any Person is obligated to pay or has the right to receive a royalty, license fee, franchise fee or similar payment;

(xii) Contracts with respect to Seller Intellectual Property except for off-the-shelf software;

(xiii) joint venture or partnership Contracts or Contracts entitling any Person to any profits, revenues or cash flows of a Seller or requiring payments or other distributions based on such profits, revenues or cash flows;

(xiv) each Contract for capital expenditures or the acquisition or construction of fixed assets relating to the Business, the performance of which involves consideration in excess of \$150,000;

(xv) each Contract that provides for an increased payment or benefit, or accelerated vesting of any benefit, to any current or former employee of a Seller upon the

execution of this Agreement or the consummation of the transactions contemplated hereby;

(xvi) each Contract relating to the acquisition (by merger, consolidation or acquisition of stock or assets) of any Person or division thereof or collection of assets constituting all or substantially all of a business or business unit;

(xvii) each Contract that is a requirements contract or other arrangement pursuant to which a Seller is obligated or otherwise required to obtain all or any portion of products or services exclusively from any Person;

(xviii) each Contract that contains minimum purchase obligations (e.g., take-or-pay) or that contains penalties or repricing provisions if certain minimum quantities of products or services are not purchased; and

(xix) Contracts with any Governmental Body.

(b) Except as set forth in Section 4.8(b) of the Seller Disclosure Schedule, (i) each Material Contract is in full force and effect and is the legal, valid, binding and enforceable obligation of the Seller(s) party(ies) thereto and, to the Knowledge of the Sellers, of the other party or parties thereto, (ii) there is not under any Material Contract any existing breach by any Seller (and, to the Sellers' Knowledge, no breach has been alleged to exist) and there exists no event or condition that, after notice or lapse of time or both, would constitute a breach of or default under the terms of any Material Contract on the part of any Seller, other than a breach or default resulting from the filing of the Chapter 11 Cases, (iii) to the Knowledge of the Sellers, there is not under any Material Contract any existing breach by any party thereto that is not a Seller (and no breach has been alleged to exist) and there exists no event or condition that, after notice or lapse of time or both, would constitute a breach of or default under the terms of any Material Contract on the part of any such other party, and (iv) assuming entry of the Confirmation Order, upon consummation of the transactions contemplated by this Agreement, each Material Contract shall continue in full force and effect without penalty or any adverse consequence to the Purchaser, except for any Material Contracts that expired in accordance with the terms thereof prior to the Closing Date.

(c) Except as set forth in Section 4.8(c) of the Seller Disclosure Schedule, the Sellers have heretofore delivered or made available to the Purchaser true, correct and complete copies of all Material Contracts that are in writing, including all amendments, modifications, schedules and supplements thereto and all waivers (including descriptions of oral waivers) with respect thereto.

#### 4.9 Permits.

(a) All of the Permits that are necessary for the operation of the Business as currently conducted and the ownership or use of the Purchased Assets (collectively, the "Material Permits") are held by the Sellers in full force and effect. Section 4.9(a) of the Seller Disclosure Schedule sets forth a true, complete and correct list of all Material Permits held by the Sellers as of the Execution Date.

(b) Each Seller is in compliance with its obligations under each of the Material Permits and the rules and regulations of the Governmental Body issuing such Material Permits, and no condition exists that with notice or lapse of time or both would constitute a default under, or a violation of, any Material Permit except for such failures to be in compliance or defaults that would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to such Seller's or the Purchaser's ability to conduct the Business in the Ordinary Course of Business.

(c) Each Material Permit is valid and in full force and effect and there is no Action, notice of violation, order of forfeiture or written complaint or, to the Knowledge of the Sellers, investigation against any Seller relating to any of the Material Permits pending or, to the Knowledge of the Sellers, threatened, before any Governmental Body. None of the Material Permits will be terminated or otherwise adversely impacted by the transactions contemplated by this Agreement.

4.10 Brokers and Finders. Except as set forth in Section 4.10 of the Seller Disclosure Schedule, no Seller has employed, and to the Knowledge of the Sellers, no other Person has made any arrangement by or on behalf of any Seller with, any investment banker, broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement which would be entitled to any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

4.11 Title to Assets; Sufficiency and Condition of Assets.

(a) At the Closing, the Sellers will have (and, subject to Section 8.3 and after giving effect thereto, shall convey to the Purchaser at the Closing) good and marketable title or a valid leasehold interest in and to each of the Purchased Assets, free and clear of all Encumbrances (except Permitted Encumbrances). At the Closing, the Sellers will have (and, subject to Section 8.3 and after giving effect thereto, shall convey to the Purchaser at the Closing) valid leasehold interests in the Assumed Personal Property Leases and the Assumed Real Property Leases, free and clear of all Encumbrances (except Permitted Encumbrances).

(b) The Purchased Assets constitute all of the properties, assets and rights used by the Sellers and necessary for the Purchaser to conduct and operate the Business in the Ordinary Course of Business. All of the Purchased Assets are in good order and repair for assets of comparable age and past use and are capable of being used in the Ordinary Course of Business in the manner necessary to operate the Business, except where the failure to be in such condition would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Sellers' or the Purchaser's ability to conduct the Business in the Ordinary Course of Business.

4.12 Tangible Personal Property; Equipment. Section 4.12(a) of the Seller Disclosure Schedule sets forth all leases and subleases involving annual payments under such lease or sublease in excess of \$150,000 relating to personal property, including Equipment, used by any Seller in the Business or to which any Seller is a party or by which the personal property, including Equipment, of any Seller is bound. Except as set forth in Section 4.12(b) of the Seller Disclosure Schedule, no Seller has received any written notice, or to the Knowledge of the

Sellers, oral notice, of any default or event that with notice or lapse of time or both would constitute such a default by such Seller under any such leases or subleases.

4.13 Real Property.

(a) None of the Sellers owns any real property.

(b) Section 4.13(b)(i) of the Seller Disclosure Schedule sets forth a complete and correct list of all Leased Real Property specifying the address or other information sufficient to identify all such Leased Real Property and a description of all documents comprising the Assumed Real Property Leases. Each Assumed Real Property Lease grants the Seller party thereto the sole and exclusive right to use and occupy the applicable Assumed Leased Real Property, in accordance with the terms thereof, subject to Permitted Encumbrances. Except as set forth in Section 4.13(b)(ii) of the Seller Disclosure Schedule, no Seller has assigned, mortgaged, pledged or otherwise encumbered its interest under any Assumed Real Property Lease and no Seller has leased, subleased or granted to any Person the right to access, enter upon, use, occupy, lease, manage, operate, maintain, broker or purchase any portion of such Seller's interest in the Leased Real Property that is not otherwise a Permitted Encumbrance or that will not otherwise be terminated on or prior to the Closing Date.

(c) No Seller has received any written notice of, or to the Knowledge of the Sellers, oral notice of, condemnation or eminent domain proceedings pending or threatened that affect any of the Assumed Leased Real Property. No Seller has received any written notice of, or to the Knowledge of the Sellers, any oral notice of, any zoning, ordinance, building, fire or health code or other legal violation affecting any of the Assumed Leased Real Property, except where any such violations would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to such Seller's or the Purchaser's ability to conduct the Business in the Ordinary Course of Business.

(d) To the Knowledge of the Sellers, there are no encroachments or other facts or conditions affecting any of the Assumed Leased Real Property other than encroachments, facts or conditions that would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to any Seller's or the Purchaser's ability to conduct the Business in the Ordinary Course of Business. To the Knowledge of the Sellers, none of the buildings and structures on any of the Assumed Leased Real Property encroaches, in any material respect, upon real property of another Person or upon the area of any easement affecting the Assumed Leased Real Property.

4.14 Compliance with Law. Each Seller is in compliance in all material respects with all applicable Laws. As of the Execution Date, no Seller has received any written notice or, to the Knowledge of the Sellers, oral notice of any alleged violation of any Law applicable to it. No Seller is subject to, or in default in any respect with, any order of any Governmental Body applicable to the Business, the Purchased Assets or the transactions contemplated under this Agreement. Except as set forth in Section 4.14 of the Seller Disclosure Schedule, no investigations, inquiries or reviews by any Governmental Body with respect to the Business have been commenced nor, to the Knowledge of the Sellers, are any contemplated that would impose



any Liability on any Seller or, from and after the Closing Date, the Purchaser, the Purchased Assets or the Business.

4.15 Tax Returns; Taxes. Except as set forth in Section 4.15 of the Seller Disclosure Schedule:

(a) All material Tax Returns required to have been filed by the Sellers have been duly filed and are true, correct and complete in all material respects, and no material fact has been omitted therefrom. No extension of time in which to file any such Tax Returns is in effect.

(b) All material Taxes due and payable by the Sellers (whether or not shown on any Tax Return) have been paid in full or are accrued as Liabilities for Taxes on the books and records of the Sellers (true and correct copies of which have been provided to the Purchaser). The accruals and reserves with respect to Taxes (other than any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth on the Most Recent Balance Sheet are adequate to cover all material Taxes of the Sellers accruing or payable with respect to Tax periods (or portions thereof) ending on or before the date of the Most Recent Balance Sheet. All material Taxes of the Sellers attributable to Tax periods (or portions thereof) commencing after the date of the Most Recent Balance Sheet have arisen in the Ordinary Course of Business.

(c) No claims have been asserted, no Taxes have been assessed and no proposals or deficiencies for any material amount of Taxes of the Sellers are being asserted, proposed or, to the Knowledge of the Sellers, threatened, and no audit or investigation of any material Tax Return of any Seller has occurred in the last five (5) years or is currently underway, pending or, to the Knowledge of the Sellers, threatened.

(d) No claim has ever been made against any Seller by any Governmental Body in a jurisdiction where such Seller does not file Tax Returns that such Seller is or may be subject to taxation in such jurisdiction.

(e) The Sellers have withheld and paid all material Taxes required to have been withheld and paid by them to the appropriate Governmental Body in connection with amounts paid or owing to any current or former employee, independent contractor, creditor or shareholder thereof or other third party.

(f) There are no Encumbrances for Taxes with respect to the Sellers or their respective assets or the Business, nor is there any such Encumbrance that is pending or, to the Knowledge of the Sellers, threatened, other than Permitted Encumbrances.

(g) No Seller has executed or filed with any Governmental Body any agreement or waiver extending the period for assessment, reassessment or collection of any material Taxes. No Seller has made an election, nor is any Seller required, to treat any of its assets or properties as owned by another Person or as tax-exempt bond financed property or tax-exempt use property within the meaning of Section 168 of the Code or under any comparable provision of state or local Tax law.

(h) No Seller is a party to or bound by any written tax sharing, tax indemnity or tax allocation agreement or other similar written arrangement with any other party.

(i) No Seller has any Liability for Taxes of any other Person as a transferee or successor, by Law or by Contract.

#### 4.16 Employees.

(a) Section 4.16(a) of the Seller Disclosure Schedule contains a true and correct list of all of the employees of each Seller as of the Execution Date, specifying their position, annual compensation for calendar years 2008 and 2009, expected annual compensation for calendar years 2010 and 2011, and date of hire. Each Seller has delivered or made available to the Purchaser true and complete copies of all of the employee policies, handbooks and procedure manuals of the Sellers and written descriptions of all material employment or personnel policies of the Sellers, if any, not set forth therein. Each Seller is in compliance in all material respects with all Laws relating to the employment and termination of employment of current and former employees, including, without limitation, employment practices, terms and conditions of employment, labor relations, union organizing, employee safety and health, wages and hours, fair labor standards, child labor, workers' compensation, employee leaves of absence, unemployment insurance, disability rights or benefits, immigration, plant closings and layoffs, equal employment opportunity, discrimination, harassment, affirmative action (to the extent applicable), breach of contract and wrongful discharge. No Seller has any direct or indirect material Liability with respect to any misclassification of any Person as an independent contractor rather than as an employee, or with respect to any employee leased from another employer. No employee of a Seller that is a party to a written employment Contract has notified a Seller, and no Seller has notified any such employee, that such employee or such Seller elects not to extend the term of such employment Contract or such employee's employment with such Seller.

(b) Section 4.16(b) of the Seller Disclosure Schedule lists the name, job title, job site and unit, date of Employment Loss, and type of Employment Loss (e.g., termination, layoff or reduction in work hours) of each employee of a Seller who has experienced an Employment Loss in the 90 days immediately preceding the Execution Date (excluding employees of a Seller who are employed for an average of fewer than 20 hours per week). Except as set forth in Section 4.16(b) of the Seller Disclosure Schedule, no Seller presently intends to take any action that would result in a "mass layoff" or "plant closing" as defined in the WARN Act, or under any similar provision of any federal, state, provincial, regional, foreign or local Law, rule or regulation, between the Execution Date and the Closing Date. At the Closing, the Sellers shall provide an update of Section 4.16(b) of the Seller Disclosure Schedule that discloses all employees of the Sellers who have experienced an Employment Loss in the ninety (90) days immediately preceding the Closing Date (excluding employees of a Seller who are employed for an average of fewer than twenty (20) hours per week or who have been employed for fewer than six (6) of the twelve (12) months preceding the Closing Date). With respect to any Employment Loss that occurred within the one (1) year preceding the Execution Date, the Sellers have complied with all of the requirements of the WARN Act, or under any similar provision of any federal, state, provincial, regional, foreign or local Law, rule or regulation.

(c) Except as provided in Section 4.16(c) of the Seller Disclosure Schedule, there are no material claims or proceedings pending or, to the Knowledge of the Sellers, threatened, by or on behalf of any current or former employee or group of employees of any Seller against any Seller, including, without limitation, any claims or proceedings involving employment practices, terms and conditions of employment, labor relations, union organizing, employee safety and health, wages and hours, fair labor standards, child labor, workers' compensation, employee leaves of absence, unemployment insurance, disability rights or benefits, immigration, plant closings and layoffs, equal employment opportunity, discrimination, harassment, affirmative action (to the extent applicable), breach of contract or wrongful discharge.

4.17 Company Benefit Plans. Except as provided in Section 4.17 of the Seller Disclosure Schedule:

(a) No Seller is a party to or bound by, either directly or by operation of Law, any collective bargaining agreement, labor contract, letter of understanding, letter of intent, voluntary recognition agreement or legally binding commitment or written communication to any labor union, trade union or employee organization or group which may qualify as a trade union in respect of or affecting current or former employees of any Seller, nor is any Seller subject to any union organization effort, nor is any Seller engaged in any labor negotiation. There are no, and within the prior three (3) years there have not been, any (i) strikes, work stoppages, work slowdowns or lockouts pending or, to the Knowledge of the Sellers, threatened against or involving any Seller, or (ii) unfair labor practice charges, grievances or complaints pending or, to the Knowledge of the Sellers, threatened by or on behalf of any current or former employee or group of employees of any Seller. No Seller has any obligation to make any severance or termination payment to any current or former employees in excess of any amount required to be paid under applicable Law.

(b) Each Seller Plan is listed in Section 4.17 of the Seller Disclosure Schedule (collectively, the "Employee Plans"). The Sellers have delivered or made available to the Purchaser true, correct and complete copies of (i) all Assumed Plans and related trust agreements, annuity contracts or other funding instruments, (ii) the latest Internal Revenue Service determination or opinion letter obtained with respect to any such Assumed Plan qualified or exempt under Section 401 or 501 of the Code, as applicable, and the results of discrimination testing for the most recently completed three (3) fiscal years for each such Assumed Plan, (iii) Forms 5500 and certified financial statements for the most recently completed three (3) fiscal years for each Assumed Plan required to file such form, together with the most recent actuarial report, if any, prepared by the Assumed Plan's enrolled actuary, (iv) the current summary plan descriptions for each Employee Plan required to prepare, file and distribute summary plan descriptions, (v) all summaries furnished to employees, officers or directors of any Seller of all incentive compensation, other plans and fringe benefits for which a summary plan description is not required and (vi) the form notifications to employees of their rights under Section 4980B of the Code.

(c) None of the Employee Plans is a "multiemployer plan" (as defined in Section 3(37) of ERISA), is or has been subject to Sections 4063 or 4064 of ERISA, or is or has been subject to Title IV of ERISA or Section 412 or 430 of the Code. Neither any Seller nor any

of its ERISA Affiliates has any Liability under Title IV of ERISA or Section 412 or 430 of the Code. None of the Employee Plans is subject to any Laws outside of the United States.

(d) Each Employee Plan has been established, administered and invested in accordance with its terms and in material compliance with all applicable Laws. Each Seller has performed and complied in all material respects with all of its obligations under or with respect to the Employee Plans. Each Assumed Plan that is intended to be a “qualified plan” within the meaning of Section 401(a) of the Code (“Qualified Plan”) and each trust that is intended to be exempt under Section 501 of the Code (“Exempt Trust”) has received a determination or opinion letter from the Internal Revenue Service to the effect that such Qualified Plan is so qualified and such Exempt Trust is so exempt, and, to the Knowledge of the Sellers, nothing has occurred since the date of the most recent Internal Revenue Service determination or opinion letter, as applicable, that would adversely affect the tax-qualified status of any Qualified Plan or Exempt Trust.

(e) There is no Action relating to, or seeking benefits under, any Assumed Plan that is pending or, to the Knowledge of the Sellers, threatened against any Seller (other than any claims for benefits under the Assumed Plans in the Ordinary Course of Business). No Seller or, to the Knowledge of the Sellers, any fiduciary of any Assumed Plan, has any Liability with respect to any transaction in violation of Sections 404 or 406 of ERISA or any “prohibited transaction,” as defined in Section 4975(c)(1) of the Code, for which no exemption exists under Section 408 of ERISA or Section 4975(c)(2) or (d) of the Code.

(f) No Assumed Plan provides post-retirement or post-termination employee benefits (including death, medical or health benefits) to or in respect of any current or former employees of any Seller or their beneficiaries, and no Seller has any obligation to provide such benefits other than COBRA Continuation Coverage. No Assumed Plan provides health benefits that are not fully insured through an insurance Contract. All contributions or premiums required to be made by any Seller to or under each Assumed Plan have been made in a timely fashion in accordance with applicable Law, and the terms of the applicable Assumed Plan, and no Seller has, and as of the Closing Date will not have, any actual or potential unfunded Liabilities with respect to any Assumed Plans.

(g) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will result, separately or in the aggregate, in the payment to any Transferred Employee of any “excess parachute payment” within the meaning of Section 280G of the Code (or any corresponding provision of state, local, or foreign Tax Law) or in the imposition of an excise tax under Section 4999 of the Code (or any corresponding provisions of state, local or foreign Tax Law).

(h) Each Assumed Plan that is a “nonqualified deferred compensation plan” (as defined under Section 409A(d)(1) of the Code) has (i) since January 1, 2005, been operated and administered in good faith compliance with Section 409A of the Code and IRS Notice 2005-1 and other authoritative and binding guidance thereunder and (ii) since January 1, 2009, been in documentary and operational compliance with Section 409A of the Code and all applicable authoritative and binding guidance thereunder. To the Knowledge of the Sellers, none of the

Sellers has any indemnity obligation which could result in Liability to the Purchaser for any Taxes or penalties imposed or accelerated under Section 409A of the Code.

(i) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby (whether alone or in conjunction with any other event) will result in forgiveness of Indebtedness or the acceleration or creation of any rights of any Person to benefits under any Assumed Plan (including the acceleration of the accrual or vesting of any benefits under any such Assumed Plan or the acceleration or creation of any rights under any employment, severance, retention, parachute or change in control agreement or the right to receive any transaction bonus or other similar payment) or the obligation to take action to secure any benefits payable under any Assumed Plan.

4.18 Parents. Except as set forth in Section 4.18 of the Seller Disclosure Schedule, neither RG Tube nor RGCH holds, owns, uses, is a party to, or is liable, responsible or an obligor under, any of the Purchased Assets or the Assumed Liabilities, or otherwise conducts any business or operations, except for (a) with respect to RG Tube, owning and holding all of the equity interests of RGCH, and (b) with respect to RGCH, owning and holding all of the equity interests of RathGibson.

4.19 Affiliate Matters. Except as set forth in Section 4.19 of the Seller Disclosure Schedule, no (a) shareholder, member, officer or director of any Seller, (b) entity in which any shareholder, member, officer or director of any Seller owns any beneficial interest (other than a publicly held corporation whose stock is traded on a national securities exchange or in the over-the-counter market and less than two percent (2%) of the stock of which is beneficially owned by such shareholders, members, officers or directors in the aggregate), or (c) Affiliate of any of the Persons described in clause (a) or (b) of this Section 4.19 (i) is a party to any Contract with, or relating to, any Seller, any Seller's Business, the Purchased Assets or the Assumed Liabilities; or (ii) has any interest in any property (real, personal or mixed, tangible or intangible) used by any Seller in the operation of the Business. Section 4.19 of the Seller Disclosure Schedule also sets forth a true, correct and complete list of all Accounts Receivable, and accounts payable owed to or due from any such Person described in clause (a), (b) or (c) of this Section 4.19 from or to any Seller, except for any compensation payable to any such officers or directors in their capacity as such in the Ordinary Course of Business.

4.20 Insurance Policies. Section 4.20 of the Seller Disclosure Schedule lists all insurance policies owned or held by any Seller or otherwise applicable to the Business, the Purchased Assets or the Assumed Liabilities (the "Insurance Policies"). All Insurance Policies (or substitute policies with substantially similar terms and underwritten by insurance carriers with substantially similar or higher ratings than the insurance carriers that underwrote the policy(ies) substituted for) are in full force and effect, all premiums with respect thereto covering all periods up to and including the Execution Date have been paid, and no written notice of cancellation or termination (or any other threatened termination) has been received with respect to any such policy. Except as set forth in Section 4.20 of the Seller Disclosure Schedule, there are no pending or, to the Knowledge of the Sellers, threatened claims under any Insurance Policy. Each Seller maintains sufficient insurance with reputable insurers for the Business, properties and assets of such Seller against all risks normally insured against, and in amounts normally carried, by such Seller in the Ordinary Course of Business.

4.21 Environmental Matters. Except as set forth in Section 4.21 of the Seller Disclosure Schedule, (a) each Seller is in material compliance with all Environmental Laws, (b) there is no investigation, suit, claim, judicial or administrative proceeding or other Action relating to or arising under Environmental Laws that is pending or, to the Knowledge of the Sellers, threatened against any Seller or any real property owned, operated or leased by any Seller, or the Business or any of the Purchased Assets, (c) none of the Leased Real Property has been listed on the federal Comprehensive Environmental Response, Compensation Liability Information System (CERCLIS) database or any other similar federal, provincial or state list of known or suspected contaminated sites, (d) no Hazardous Materials have been treated, stored or Released by any Seller at the Leased Real Property in any manner or concentration that requires investigation, removal or remediation under Environmental Laws that would, individually or in the aggregate, reasonably be expected to be adverse in any material respect to such Seller or would otherwise cause any Seller or any future owner or operator of any Leased Real Property to incur material Liability under Environmental Laws, and (e) no Seller has received any notice of or entered into any order, settlement, judgment, injunction or decree involving uncompleted, outstanding or unresolved material obligations, Liabilities or requirements relating to or arising under Environmental Laws.

4.22 Customers, Vendors and Suppliers. Section 4.22(a) of the Seller Disclosure Schedule sets forth a complete and accurate list of all Significant Customers and Significant Vendors/Suppliers. “Significant Customers” are (a) the ten (10) customers of each Seller that have purchased the most, in terms of dollar value, products or services sold by the Business of such Seller during the fiscal year ended January 31, 2009; and (b) the ten (10) customers of each Seller that have purchased the most, in terms of dollar value, products or services sold by the Business of such Seller during the fiscal year ended January 31, 2010. “Significant Vendors/Suppliers” are: (y) the ten (10) vendors and/or suppliers of each Seller that have sold the most, in terms of dollar value, products or services to the Business during the fiscal year ended January 31, 2009; and (z) the ten (10) vendors and/or suppliers of each Seller that have sold the most, in terms of dollar value, products or services to the Business of such Seller during the fiscal year ended January 31, 2010. Except as set forth in Section 4.22(b) of the Seller Disclosure Schedule, true, correct and complete copies of all written Contracts (other than purchase orders issued under a master agreement) with Significant Customers and Significant Vendors/Suppliers have been provided or made available to the Purchaser. No Significant Customer or Significant Vendor/Supplier has given any Seller written notice or, to the Knowledge of the Sellers, oral notice terminating, canceling or materially reducing, or threatening to terminate, cancel or materially reduce, any Contract or relationship with such Seller. As of the Execution Date, no Significant Customer (i) has given any Seller written notice or, to the Knowledge of the Sellers, oral notice that such Seller no longer meets such Significant Customer’s quality specifications or any certification requirements imposed upon companies in the same industry as that of the Business or (ii) to the Knowledge of the Sellers, has threatened to terminate such Significant Customer’s Contract or relationship with any Seller. During the six-month period immediately preceding the Execution Date, there has been no material increase in the dollar amount of customer claims relating to the quality of any Seller’s products or services as compared with the comparable period of the preceding calendar year. Except as set forth in Section 4.22(c) of the Seller Disclosure Schedule, no Acquired Customer, Significant Customer or Significant Vendor/Supplier has proposed in writing, or given any Seller written notice or, to the Knowledge of the Sellers, oral notice of its intention to propose, any material price structure

changes or any other material changes to any Contract with such Seller, nor to the Knowledge of the Sellers, does any Acquired Customer, Significant Customer or Significant Vendor/Supplier intend to propose a material change to the price structure of any such Contract or any other material change to any such Contract.

4.23 Accounts Receivable. Each Seller has made available to the Purchaser a complete and accurate list, as of December 31, 2009, of the Accounts Receivable of such Seller, including an aging of all Accounts Receivable showing amounts due in thirty (30)-day aging categories. Each Seller has provided reserves for Accounts Receivable (the "Seller Reserves") in accordance with GAAP, consistently applied in the Ordinary Course of Business by such Seller. All Accounts Receivable represent valid obligations arising from bona fide business transactions in the Ordinary Course of Business. Subject to the Seller Reserves, there is no pending or, to the Knowledge of the Sellers, threatened contest, claim, counterclaim, defense or right of set-off under any Contract or otherwise with any obligor of any Account Receivable relating to the amount or validity of such Account Receivable.

4.24 Inventory. All Inventory is in good and merchantable quality and is useable and saleable in the Ordinary Course of Business and none of it is slow-moving, obsolete, materially damaged or materially defective, except for those items the value of which has been reduced in accordance with GAAP and the Sellers' inventory policies consistently applied by the Sellers. The quantities of all Inventory items are sufficient in light of the present and anticipated volume of business of the Business.

4.25 Financial Statements. The Sellers have delivered or made available to the Purchaser the following financial statements: (a) the audited consolidated balance sheet of RathGibson as of January 31, 2009 (the "Audited Balance Sheet"), and the related consolidated statements of operations, stockholders' equity (deficiency) and cash flows for the twelve (12)-month period then ended, included in the Annual Report on Form 10-K of RathGibson for the year ended January 31, 2009 (the "Audited Financial Statements"), and (b) the condensed consolidated unaudited balance sheet of RathGibson as of December 31, 2009 (the "Most Recent Balance Sheet"), and the related condensed consolidated unaudited statements of operations and cash flows for the eleven (11)-month period then ended (the "Unaudited Financial Statements" and, together with the Audited Financial Statements, the "Financial Statements"). Each of the Financial Statements (i) has been prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby (subject, in the case of the Unaudited Financial Statements to normal recurring year-end adjustments and the absence of all required footnotes thereto (that, if presented, would not, individually or in the aggregate, differ materially from those included in the Audited Financial Statements)); and (ii) fairly present in all material respects the consolidated financial condition, stockholders' equity and results of operations and cash flows (as applicable) of RathGibson and its Subsidiaries as of the respective dates thereof and for the periods referred to therein.

4.26 Capital Expenditures. As of the Execution Date, the Sellers have made available to the Purchaser a true and complete copy of the 2011 Capital Budget. The 2011 Capital Budget was prepared in good faith and based on reasonable assumptions and the best available information to the Sellers.

4.27 Absence of Undisclosed Liabilities.

(a) Except as set forth in Section 4.27(a) of the Seller Disclosure Schedule, none of RathGibson, Greenville nor any of the Foreign Subsidiaries has any Liabilities, except (i) Liabilities reflected on the liabilities side of the Most Recent Balance Sheet, (ii) Liabilities that have arisen after the date of the Most Recent Balance Sheet in the Ordinary Course of Business or otherwise in accordance with the terms and conditions of this Agreement (none of which is a material Liability) and (iii) Liabilities of the type that are not required to be reflected on a balance sheet prepared in accordance with GAAP (none of which is a material Liability).

(b) Except as set forth in Section 4.27(b) of the Seller Disclosure Schedule, neither RG Tube nor RGCH has any Liabilities.

(c) None of the Sellers has any Liabilities relating to contingent payments, purchase price adjustments or earnout payments under (i) that certain Asset Purchase Agreement, dated July 1, 2003, between GT Acquisition Company and Greenville Tube, LLC or the Earnout Agreement referred to therein; (ii) that certain Stock Purchase Agreement, dated as of December 6, 2005, by and among RGCH Holdings LLC, RathGibson and the sellers named therein; (iii) that certain Stock Purchase Agreement, dated as of April 28, 2007, by and among RG Tube, RGCH and RGCH Holdings LLC; or (iv) that certain Asset Purchase Agreement, dated as of February 27, 2008, by and among RathGibson, Mid-South Control Line, Inc. and the stockholders of Mid-South Control Line, Inc., or any ancillary agreements entered into in connection with any of the agreements referred to in clauses (i)-(iv) above.

4.28 No Other Representations or Warranties. Except for the representations and warranties contained in this Article 4, none of the Sellers or any other Person on behalf of the Sellers makes any express or implied representation or warranty with respect to any of the Sellers or with respect to any other information provided to the Purchaser in connection with the transactions contemplated hereby, including, without limitation, as to the probable success or profitability of the ownership, use or operation of the Business, and the Purchased Assets following the Closing. None of the Sellers will have or be subject to any liability or indemnification obligation to the Purchaser resulting from the distribution to the Purchaser, or the Purchaser's use of, any such information, including any information, documents, projections, forecasts or other materials made available to the Purchaser in expectation of the transactions contemplated by this Agreement, unless any such information is expressly included in a representation or warranty contained in this Section 4.28.

**ARTICLE 5.**

**REPRESENTATIONS AND WARRANTIES OF THE PURCHASER**

The Purchaser hereby makes the representations and warranties in this Article 5 to the Sellers as of the Execution Date and as of the Closing Date (except with respect to representations and warranties made as of a particular date, which shall be deemed to be made only as of such date).



5.1 Corporate Organization and Qualification. The Purchaser is a limited liability company, duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation. The Purchaser is qualified and in good standing as a foreign entity in each jurisdiction where the properties owned, leased or operated, or the business conducted by it require such qualification, except where the failure to be so qualified would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Purchaser's ability to consummate the transactions contemplated by this Agreement. The Purchaser has all requisite power and authority (limited liability company or otherwise) to own its properties and to carry on its business as it is now being conducted.

5.2 Authority Relative to This Agreement. The Purchaser has the requisite limited liability company power and authority to (a) execute and deliver this Agreement, (b) execute and deliver each of the Purchaser Ancillary Agreements, and (c) perform its obligations hereunder and under each of the Purchaser Ancillary Agreements, and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Purchaser of this Agreement and each of the Purchaser Ancillary Agreements have been duly authorized by all necessary limited liability company action on behalf of the Purchaser. This Agreement has been, and at or prior to the Closing each of the Purchaser Ancillary Agreements will be, duly and validly executed and delivered by the Purchaser and (assuming the due authorization, execution and delivery by the other parties hereto and thereto, and entry of the Confirmation Order) this Agreement constitutes, and each of the Purchaser Ancillary Agreements when so executed and delivered will constitute, legal, valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their respective terms, subject to the Bankruptcy Exceptions.

5.3 Consents and Approvals; No Violation.

(a) Except as set forth in Section 5.3(a) of the Purchaser Disclosure Schedule, none of the execution and delivery by the Purchaser of this Agreement or the Purchaser Ancillary Agreements, the consummation of the transactions contemplated hereby or thereby, or the compliance by the Purchaser with any of the provisions hereof or thereof will conflict with, result in a violation of, or default (with or without notice or lapse of time, or both) under, cause additional fees or other payments to be due under, increase, change or modify rights, benefits or obligations under, or give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a benefit under, any provision of (i) the certificate of formation or the limited liability company agreement (or similar organizational documents) of the Purchaser, (ii) any Contract (including, without limitation, any Contracts related to financing) or Permit to which the Purchaser is a party or by which the Purchaser or its properties, assets or business are bound or subject, (iii) any order of any Governmental Body applicable to the Purchaser or by which any of the properties, assets or business of the Purchaser are bound, or (iv) any applicable Law, other than, in the case of clauses (ii), (iii), and (iv), such conflicts, violations, defaults, fees, payments, increases, changes, modifications, terminations, cancellations, accelerations or losses that would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Purchaser's ability to consummate the transactions contemplated by this Agreement.

(b) Except as set forth in Section 5.3(b) of the Purchaser Disclosure Schedule, no approval, order or Permit from, consent by, or registration, declaration, notification or filing with, any Governmental Body or other Person is required on the part of the Purchaser in connection with the execution and delivery of this Agreement or the Purchaser Ancillary Agreements, the compliance by the Purchaser with any of the provisions hereof or thereof, the consummation of the transactions contemplated hereby or thereby, or the taking by the Purchaser of any other action contemplated hereby or thereby, or for the Purchaser to operate the Purchased Assets, except for such approvals, orders, Permits, consents, registrations, declarations, notifications or filings the failure of which to obtain or make would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Purchaser's ability to consummate the transactions contemplated by this Agreement.

5.4 Brokers and Finders. The Purchaser has not employed, and to the knowledge of the Purchaser, no other Person has made any arrangement by or on behalf of the Purchaser with, any investment banker, broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement which would be entitled to any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

5.5 Sufficiency of Financing. The Purchaser has obtained equity financing letters from certain investors for the financing of the transactions contemplated by the Purchaser in connection with this Agreement (the "Equity Financing Letters"), which shall provide the Purchaser with funds that are sufficient to pay the Purchase Price and all related fees, expenses and obligations for which the Purchaser will be responsible hereunder. The execution and delivery of each Equity Financing Letter has been duly authorized by all requisite action on the part of the Purchaser.

5.6 Investigation. In entering into this Agreement, the Purchaser has relied upon its own investigation and analysis as well as the representations and warranties made by the Sellers in Article 4, and the Purchaser acknowledges that neither the Sellers nor any of their respective Affiliates makes or has made any representation or warranty, either express or implied, as to the accuracy or completeness of any of the information provided or made available to the Purchaser or any of its Affiliates, except as and only to the extent expressly set forth in Article 4.

5.7 HSR Matters. As of the Execution Date and as of the Closing, the Purchaser (a) is its own UPE and (b)(i) had annual net sales of less than \$13,000,000 and (ii) has less than \$13,000,000 in total assets, each as determined in accordance with Section 801.11 of the Rules to the HSR Act.

## ARTICLE 6.

### EMPLOYEES

6.1 Employee Offers. On or prior to the Closing Date, the Purchaser shall offer employment (on an "at will" basis) with the Purchaser or one of its Affiliates to each of the employees of the Sellers (other than any employee the hiring of whom required the prior written consent of the Purchaser pursuant to Section 8.1(a) or Section 8.1(b)), but for which such prior

written consent was not given by the Purchaser, unless the Purchaser otherwise elects to make an offer of employment) who is, as of immediately prior to the Closing, (a) actively at work in connection with the Business, (b) on short-term disability or workers' compensation in connection with the Business, or (c) on a leave of absence approved by the Sellers in connection with the Business, including under the Family and Medical Leave Act, as amended, and the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended. Each such offer of employment shall be at the substantially same hourly wage rate or salary level (excluding performance-based or incentive compensation, bonuses and equity-based compensation, as applicable) and position in effect immediately prior to the Closing Date (except to the extent that any of the foregoing was provided, set or given in violation of this Agreement); provided, however, that with respect to (i) Transferred Employees whose written employment Contracts with a Seller have been assumed by such Seller and assigned to the Purchaser in accordance with the terms of this Agreement (the "Assumed Employment Contracts") and (ii) Transferred Employees who enter into written employment Contracts with the Purchaser at the Closing (the "New Employment Contracts" and, together with the Assumed Employment Contracts, the "Employment Contracts"), the terms of such Employment Contracts shall govern such Transferred Employee's employment. In addition, any offer of employment to any such employee of the Sellers who is a party to a written employment Contract with a Seller that entitles such employee to severance upon a termination of employment by such Seller without cause and whose employment Contract will not be an Assumed Plan will require, as a condition to the acceptance of such offer of employment, that such employee waive in writing his or her right to receive such severance from the Sellers; provided, however, that the Purchaser shall be entitled to waive such condition if such employee does not agree to provide such waiver. Notwithstanding the foregoing, nothing in this Agreement will, after the Closing Date, impose on the Purchaser any obligation to retain any Transferred Employee in its employment or the employment of any of its Affiliates. Except as described in the remaining sentences of this Section 6.1, the employment of each Transferred Employee with the Purchaser or any of its Affiliates will commence immediately upon the Closing (but only if the Closing occurs). In the case of any individual who is absent from active employment and receiving short-term disability or workers' compensation benefits, or is otherwise out of work on an approved leave of absence as set forth above, the employment of such individual with the Purchaser or its designated Affiliate will commence upon his or her return to active work, and such individual will become a Transferred Employee as of such date (but only if the Closing occurs). Each employee of a Seller to whom the Purchaser has made an offer of employment pursuant to this Section 6.1 and that has accepted such offer and commences employment with the Purchaser or any of its Affiliates on or following the Closing Date is hereinafter referred to as a "Transferred Employee". Except as provided in Section 1.3(d), Section 1.3(e) and Section 1.3(f), the Purchaser shall have no Liability with respect to any employee of a Seller referred to in the first sentence of this Section 6.1 prior to the date he or she becomes (or declines to become) a Transferred Employee.

6.2 Seller Plans. Except as otherwise set forth in this Section 6.2, the Purchaser shall adopt and assume, as of the Closing Date, each of the Assumed Plans with respect to all benefits to be provided under the provisions of such Assumed Plans. With respect to each Assumed Plan, the Purchaser or any Person designated by the Purchaser, will be substituted for the applicable Seller as the plan sponsor under each such Assumed Plan and the Purchaser shall have all rights of such Seller thereunder, including, without limitation, full authority to maintain, amend or

terminate any such Assumed Plan at any time, in the Purchaser's sole discretion. The Sellers agree to cooperate with the Purchaser in adopting and effectuating any plan amendments to the Assumed Plans reasonably desired by the Purchaser, so long as such amendments are effective as of, or after, the Closing Date and are consistent with applicable Law. The parties agree to cooperate in all respects and take any actions necessary to implement the assumption by the Purchaser of the Assumed Plans. Without limiting the obligations of the Sellers under Section 1.1, before, or as soon as administratively practicable after, the Closing, the Sellers will supply the Purchaser with (a) all records concerning participation, vesting, accrual of benefits, payment of benefits, and election forms of benefits under each Assumed Plan, and (b) any other information reasonably requested by the Purchaser as necessary or appropriate for the administration of each Assumed Plan. Notwithstanding the foregoing, the Purchaser shall not assume any Liabilities arising out of any acts or omissions of any of the Sellers or any fiduciaries or trustees of any Assumed Plan occurring on or prior to the Closing Date in connection with the operation or administration of such Assumed Plan. Sellers shall retain all Liabilities for (i) the payment or provision of severance or similar benefits in connection with (A) the termination of employment of any Transferred Employee as of the Closing Date, and (B) except to the extent explicitly set forth in Section 1.3(m) (and subject to the conditions set forth therein), the termination of employment of any current or former employee of a Seller who is not a Transferred Employee (whether before, as of, or after the Closing Date), (ii) the payment or provision of any change in control payment, transaction bonus or similar benefits arising as a result of the transactions described herein, and (iii) to the extent not set forth on the Final Certificate, the payment of accrued vacation as of the Closing Date with respect to all current and former employees of the Sellers (including Transferred Employees), and no such Liabilities shall be assumed by the Purchaser under this Section 6.2.

6.3 COBRA Coverage. The Purchaser shall be responsible for providing, and shall assume all Liabilities in respect of, the provision of continued medical coverage pursuant to its group health plans for employees under Part 6, Title I of ERISA and Section 4980B of the Code ("COBRA Continuation Coverage"), for all current and former employees of the Sellers with respect to any "qualifying event" (within the meaning of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended) incurred on or prior to the Closing Date or otherwise arising as a result to the transactions described herein. Immediately prior to the Closing, the Sellers will provide to the Purchaser a list of all current and former employees of the Sellers (i) terminated by the Sellers within the ninety (90) days immediately preceding the Closing and (ii) receiving COBRA Continuation Coverage on the Closing Date.

6.4 WARN Act Liability. The Sellers shall be solely responsible, on a joint and several basis, for any obligations or other Liabilities under the WARN Act, or under any similar provision of any federal, state, provincial, regional, foreign or local Law, that might arise on or prior to the Closing Date, or as a consequence of the transactions contemplated by this Agreement, including, without limitation, providing any notice of layoff or plant closing, or maintaining the employees of any Seller on such Seller's payroll for any period of notice required by the WARN Act, or under any similar provision of any federal, state, provincial, regional, foreign or local Law. The Sellers shall retain all Liabilities, if any, for any severance or termination costs relating to employees of any Seller who, on or at the Closing Date, experience a termination of employment by any Seller as a result of the transactions contemplated by this Agreement.

6.5 Eligibility; Service Credit. From and after the Closing Date, each Transferred Employee shall (to the extent permitted by applicable Laws) be credited under each of the Purchaser's employee benefit plans or programs in which such Transferred Employee participates (including, without limitation, the Purchaser 401(k) Plan), with his or her years of service with the Sellers before the Closing Date for purposes of vesting, eligibility, and level of benefits (except for purposes of benefit accrual under a defined benefit pension plan or where such credit would result in a duplication of benefits) to the same extent as such Transferred Employee was entitled, before the Closing Date, to credit for such service with the Sellers under any similar Seller Plan in which such Transferred Employee participated immediately prior to the Closing Date. In addition, and without limiting the generality of the foregoing, the Purchaser shall (to the extent that such limitation would not apply with respect to substantially similar plans maintained by the Sellers prior to the Closing Date) use its commercially reasonable efforts to (i) cause to be waived any eligibility requirements (to the extent such requirements were satisfied by the applicable Transferred Employee prior to the Closing Date with respect to the similar Seller Plan) or pre-existing condition limitations applicable to any Transferred Employee, and (ii) give effect, in determining any deductible maximum out of pocket limitations, to amounts paid by any Transferred Employee during the plan year in which the Closing Date occurs.

6.6 401(k) Plans. The Sellers shall cause the account balances of each Transferred Employee under each of the Seller 401(k) Plans to become fully vested as of the Closing Date. The Purchaser shall, or shall cause an Affiliate of the Purchaser to, adopt the Purchaser 401(k) Plan effective as of the Closing Date for the benefit of eligible Transferred Employees. The Purchaser shall cause the Purchaser 401(k) Plan to accept a direct rollover of each Transferred Employee's "eligible rollover distribution" (within the meaning of Section 402 of the Code) from the applicable Seller 401(k) Plans, at the election of the Transferred Employee. The Purchaser agrees that the property so rolled over may include promissory notes evidencing loans from the Seller 401(k) Plans to such Transferred Employees that are outstanding as of the Closing Date.

6.7 No Third-Party Beneficiaries.

(a) Notwithstanding anything set forth in this Article 6, nothing contained herein, whether express or implied, (i) shall be treated as an amendment or other modification of any Seller Plan or (ii) shall limit the right of the Purchaser or any of its Affiliates to amend, terminate or otherwise modify any Seller Plan or any of the Purchaser's or any of its Affiliate's employee benefit plans or programs following the Closing Date; provided, that the Purchaser complies with its obligations under Section 6.2.

(b) Without limiting the generality of Section 12.13, the Sellers and the Purchaser acknowledge and agree that all provisions contained in this Article 6 with respect to current and former employees of the Sellers are included for the sole benefit of the Sellers and the Purchaser, and that nothing herein, whether express or implied, shall create any third party beneficiary or other rights (i) in any other Person, including, without limitation, any current or former employees, directors, officers or consultants of any Seller, any participant in any Seller Plan, or any dependent or beneficiary thereof, or (ii) to continued employment with the Purchaser or any of its Affiliates.

## ARTICLE 7.

### BANKRUPTCY COURT MATTERS

#### 7.1 Certain Motions and Orders.

(a) No later than the close of business on the date that is one (1) Business Day following the Execution Date, the Sellers shall file with the Bankruptcy Court the Approval Motion. The Approval Motion shall seek approval of, and the Approval Order shall approve, the payment by the Sellers of the Break-Up Fee, the Reimbursement Amount, the Collection Costs and the Expense Amount to the extent such amounts are required to be paid by the Sellers under this Agreement. The Break-Up Fee, the Reimbursement Amount and the Collection Costs shall constitute allowed super-priority administrative claims against the Sellers' estates under sections 503(b) and 507(a)(1) of the Bankruptcy Code (except for the "Carve Out" under the DIP Credit Agreement, which shall be senior in priority to the Break-Up Fee, the Reimbursement Amount, the Collection Costs and the Expense Amount). The Approval Order shall provide for such super-priority administrative expense rights in form and substance satisfactory to the Purchaser. The Sellers shall comply in all material respects with, and take no actions inconsistent with, all of the terms and conditions contained in the Approval Order (including, without limitation, the Bid Procedures and the Assumption and Assignment Procedures) including the occurrence of the events by the dates and the times set forth therein, all of which are expressly incorporated herein by reference.

(b) The Sellers shall use their commercially reasonable efforts to: (i) obtain entry by the Bankruptcy Court of the Approval Order no later than April 9, 2010, (ii) ensure that the deadline by which votes on the Plan are due is no later than May 18, 2010, (iii) ensure that Qualified Bids are due no later than May 19, 2010, (iv) ensure that the Auction, which will be conducted in accordance with the Bid Procedures and the Bid Procedures Order, shall be held and closed no later than May 28, 2010, (v) ensure that the Cure Cost/Assignment Objection Deadline shall be scheduled no later than May 15, 2010, (vi) ensure that the Confirmation Hearing is held no later than June 1, 2010, (vii) obtain entry by the Bankruptcy Court of the Confirmation Order no later than June 1, 2010, and (viii) subject to the satisfaction of the conditions precedent contained in this Agreement, consummate the Closing as soon as reasonably practicable after the entry by the Bankruptcy Court of the Confirmation Order (but in no event later than June 16, 2010).

(c) The Approval Motion and the motion seeking entry by the Bankruptcy Court of the Confirmation Order, including any exhibits thereto and any notices or other materials in connection therewith, in each case as they relate to any of the Specified Matters, must be in form and substance satisfactory to the Purchaser.

(d) If the Approval Order, the Confirmation Order or any other orders of the Bankruptcy Court relating to this Agreement (all such orders, the "Bankruptcy Court Orders") shall be appealed by any Person (or a petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to any Bankruptcy Court Order), the Sellers shall diligently defend against any such appeal, petition or motion and shall use their commercially reasonable efforts to obtain an

expedited resolution of any such appeal, petition or motion. The Sellers shall keep the Purchaser reasonably informed and updated regarding the status of any such appeal, petition or motion.

(e) The Sellers shall, except where not practicable, exercise commercially reasonable efforts to provide draft copies of all motions, notices, statements, schedules, applications, reports and other papers the Sellers intend to file with the Bankruptcy Court in connection with the Approval Order, the Confirmation Order or any other Bankruptcy Court Order to the Purchaser within a reasonable period of time prior to the date the Sellers intend to file any of the foregoing and consult in advance in good faith with the Purchaser regarding the form and substance of any such proposed filing with the Bankruptcy Court.

## 7.2 Competing Bids.

(a) From the Execution Date until the date of entry by the Bankruptcy Court of the Bid Procedures Order, none of the Sellers shall, and the Sellers shall cause their respective Affiliates and Representatives not to, directly or indirectly, (i) solicit, initiate, encourage or discuss any proposal or offer from any Person (other than the Purchaser and its Affiliates and Representatives) relating to any Alternative Transaction, (ii) furnish any information with respect to, or assist or participate in, or facilitate in any other manner, any effort or attempt by any Person to do or seek the foregoing or (iii) seek or support the Bankruptcy Court approval of a motion or order inconsistent in any way with the transactions contemplated herein.

(b) This Agreement and the transactions contemplated hereby are subject to the Sellers' right and ability to consider higher or better competing bids with respect to the Business and the Purchased Assets pursuant to the Bid Procedures, as approved by the Bid Procedures Order. In accordance with the Bid Procedures, from the date of entry by the Bankruptcy Court of the Bid Procedures Order until the conclusion of the Auction, the Sellers shall have the right to, and may cause their Representatives and Affiliates to, (i) initiate contact with, solicit or encourage submission of any inquiries, proposals, offers or bids by, and negotiate with, any Person (in addition to the Purchaser and its Affiliates and Representatives) in connection with any sale or other disposition of the Purchased Assets; (ii) respond to any request for information or due diligence inquiry, or make management available for such purposes, to any such Person; and (iii) furnish any information with respect to, or assist or participate in, or facilitate in any other manner, any effort or attempt by any Person to do or seek to do any of the foregoing; provided, that the exercise of all such rights described in this Section 7.2(b) shall be exercised solely in compliance with (to the extent the applicable matter is addressed in the Bid Procedures), and not in a manner inconsistent with, the Bid Procedures, as approved by the Bid Procedures Order.

(c) From the date of entry by the Bankruptcy Court of the Bid Procedures Order until the conclusion of the Auction, the Sellers shall have the responsibility and obligation, as required under the Bankruptcy Code or other applicable Law, to respond to any inquiries or offers to purchase all or any part of the Purchased Assets, and perform any and all other acts related thereto, including, without limitation, supplying information relating to the Business and the assets of the Sellers to prospective purchasers, subject only to the provisions of the Bid Procedures Order. Following the conclusion of the Auction, provided that the Purchaser is the Successful Bidder or the Second-Highest Bidder, none of the Sellers shall, and the Sellers shall

cause their respective Affiliates and Representatives not to, directly or indirectly, take any of the actions or do any of the things described in clauses (i)-(iii) of Section 7.2(a) other than as any such action or thing relates to the Successful Bidder or the Second-Highest Bidder.

## ARTICLE 8.

### COVENANTS AND AGREEMENTS

#### 8.1 Conduct of Business of the Sellers.

(a) During the period from the Execution Date and continuing until the earlier of the termination of this Agreement in accordance with Section 3.4 and the Closing Date, except (1) for any limitations on operations imposed by the Bankruptcy Court or the Bankruptcy Code, (2) as required by applicable Law, the Bankruptcy Court or the Bankruptcy Code, (3) as otherwise expressly contemplated by this Agreement or as set forth in Schedule 8.1(a) or (4) with the prior written consent of the Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), each Seller shall:

(i) conduct the Business and operate and maintain its assets and properties in the Ordinary Course of Business (including performing its obligations under the Material Contracts);

(ii) maintain and keep its properties and Equipment in good repair, working order and condition (normal wear and tear excepted);

(iii) maintain in full force and effect the Insurance Policies;

(iv) use its commercially reasonable best efforts to (x) preserve the goodwill of and relationships with Governmental Bodies, customers, suppliers, vendors, lessors, licensors, licensees, contractors, distributors, insurers, agents, employees and others having business dealings with such Seller in connection with the Business; and (y) comply with all applicable Laws (including Environmental Laws) and Permits and, to the extent consistent therewith, preserve its assets (tangible and intangible), including the IT Assets; and

(v) with respect to compliance with Environmental Laws or as required by any Governmental Body, continue with any required remedial activities to address any Release or threatened Release of Hazardous Materials and operate and maintain its assets and properties in material compliance with Environmental Laws.

(b) During the period from the Execution Date and continuing until the earlier of the termination of this Agreement in accordance with Section 3.4 and the Closing Date, except (1) for any limitations on operations imposed by, or actions required by, the Bankruptcy Court or the Bankruptcy Code, (2) as required by applicable Law, the Bankruptcy Court or the Bankruptcy Code, (3) as otherwise expressly contemplated by this Agreement or as set forth in Schedule 8.1(b), or (4) with the prior written consent of the Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), no Seller shall:



(i) acquire any material assets, tangible or intangible, other than in the Ordinary Course of Business;

(ii) sell, lease, transfer or assign any material assets or properties, tangible or intangible, other than (x) sales of Inventory in the Ordinary Course of Business, or (y) the disposition of obsolete or immaterial assets not necessary for the conduct of the Business by the Sellers in the Ordinary Course of Business;

(iii) accelerate, terminate (other than at its stated expiry date), extend, modify or amend in any material respect or cancel any Material Contract or any Contract that would be a Material Contract if in effect on the Execution Date; waive, release or assign any material rights or claims under any Material Contract or any Contract that would be a Material Contract if in effect on the Execution Date; or enter into any Contract that would have been a Material Contract had it been entered into prior to the Execution Date;

(iv) impose, suffer or create any Encumbrance (other than Permitted Encumbrances) upon any of the assets or properties of such Seller, tangible or intangible;

(v) incur or make any capital expenditures, except to the extent permitted by the DIP Credit Agreement;

(vi) create, incur, assume or guarantee any Indebtedness, except Indebtedness (other than Indebtedness for borrowed money) created, incurred, assumed or guaranteed in the Ordinary Course of Business;

(vii) transfer, assign, abandon, dispose, permit to lapse or grant any license or sublicense of, or any rights to use, any rights under or with respect to any Seller Intellectual Property, other than pursuant to license agreements entered into in the Ordinary Course of Business; take any action or knowingly fail to take any action that would reasonably be expected to result in the abandonment, cancellation or unenforceability of any Seller Intellectual Property; enter into any settlement regarding breach or infringement of any Seller Intellectual Property, or disclose to any Person (not an employee of the Sellers) any Seller Intellectual Property not heretofore a matter of public knowledge;

(viii) make any principal payments on the Indebtedness under the DIP Credit Agreement, except as required by the DIP Credit Agreement;

(ix) agree to any change in the rate of compensation, commission, bonus or other direct or indirect remuneration payable, or pay any bonus, incentive, retention or other compensation, retirement, welfare, fringe or severance benefit or vacation pay, to or in respect of, any executive officers, directors or Significant Employees of such Seller or any employee of such Seller that would be a Significant Employee after any such change, in each case, other than the payment of bonuses and increases in base compensation made in the Ordinary Course of Business;

(x) fail to make any planned capital expenditures or capital additions when and as contemplated by the 2011 Capital Budget;

(xi) make any loans, advances or capital contributions to, or investments in, any other Person;

(xii) delay or postpone the payment of undisputed accounts payable or any other undisputed Liabilities of the Business in any material respect (except as required by the Bankruptcy Code);

(xiii) adopt, make or agree to (x) any welfare, pension, retirement, profit sharing, incentive compensation or similar plan, program, payment or arrangement for any current or former director, employee or consultant, except pursuant to the existing Seller Plans or (y) any new employment, severance or change of control agreement;

(xiv) make any material addition to or modification of any Seller Plan, other than (x) contributions to any Seller Plan made in the Ordinary Course of Business or (y) the extension of coverage to employees of such Seller who became eligible after the Execution Date;

(xv) materially change any finance or Tax accounting elections, methods, principles or practices, except insofar as may be required by a change in GAAP or applicable Law;

(xvi) (x) make or rescind any material election relating to Taxes, (y) file any amended income Tax Return of, or claim for refund for, any Seller or any of its Subsidiaries, or (z) settle or compromise any material Tax Liability, except for claims for refunds that would not reasonably be expected to result in Liability to the Purchaser or the Business;

(xvii) terminate any executive officer, director or Significant Employee of such Seller, unless such termination is for cause;

(xviii) make any distributions or dividends of the assets or properties of the Sellers (other than Excluded Assets) in respect of outstanding securities of the Sellers;

(xix) fail to manage working capital of the Business in the ordinary course of business since the Filing Date (including by failing to replenish Inventory in the normal and customary manner consistent with past practices and taking any action or failing to take any action that has the effect of accelerating sales to customers or other revenues, receivables or collections from customers or other Persons that would otherwise be expected to take place or be incurred at a later date, or postpone the payment of any accounts payable);

(xx) institute, settle or agree to settle any litigation, proceeding or other Action before any court or other Governmental Body;

(xxi) make any material changes in policies or practices relating to selling practices, returns, discounts or other terms of sale of the products and/or services of the Business, or in respect of the payment of trade accounts payable or other similar Liabilities incurred in connection with the Business;

(xxii) write off or write down as uncollectible any Accounts Receivable, other than in the Ordinary Course of Business, or write down a material amount of the value of any other assets;

(xxiii) agree to any limitations on such Seller or any of its Subsidiaries from engaging or competing in any line of business or in any geographic area or location or otherwise with any Person or from soliciting or hiring any Person;

(xxiv) make any material change in the nature of the Business;

(xxv) fail to pay when due any material (individually or in the aggregate with all other such unpaid Liabilities) Liabilities arising out of the operations of the Business, except with respect to any such Liabilities being contested in good faith and for which adequate reserves have been established in accordance with GAAP;

(xxvi) cancel or terminate any insurance policy naming any Seller as a beneficiary or a loss payable payee;

(xxvii) assume or enter into any labor or collective bargaining agreement;

(xxviii) amend or change, as applicable, any of the Seller Organizational Documents;

(xxix) make any distributions that are intended to be made under the Plan or make any payments or other distributions in respect of the claims, expenses or other items that fall within the categories set forth on Schedule 8.1(b)(xxix); or

(xxx) enter into any Contract or make (in writing, orally or otherwise) any promise or commitment with respect to any of the foregoing.

(c) During the period from the Execution Date and continuing until the earlier of the termination of this Agreement in accordance with Section 3.4 and the Closing Date, the Sellers shall cause the Foreign Subsidiaries to comply with the terms and provisions of Sections 8.1(a) and 8.1(b) as if such terms and provisions were applicable to the Foreign Subsidiaries by applying such terms and provisions *mutatis mutandis* (such that all changes and modifications to the defined terms and other terminology used in such terms and provisions shall be made so that such terms and provisions can be applied in a logical manner to the Foreign Subsidiaries).

8.2 Pre-Closing Access to Information. Each Seller agrees that, between the Execution Date and the earlier of the Closing Date and the date on which this Agreement is terminated in accordance with Section 3.4, the Purchaser and the directors, officers, employees, counsel, professionals, advisors, accountants, agents, contractors and other representatives (the "Representatives") of the Purchaser (including Representatives of entities providing or arranging

financing for the Purchaser), shall be entitled to have, and each Seller shall afford, such reasonable access to, and make such reasonable, non-invasive investigation and examination of, the books, records and other Documents, properties, businesses, assets, employees, accountants, auditors, counsel and operations of the Sellers as the Purchaser or any of the Purchaser's Representatives may reasonably request, and to make extracts and copies of any such books, records and other Documents. Any such investigations and examinations shall be conducted during regular business hours and upon reasonable advance notice to the applicable Seller. Pursuant to this Section 8.2, each Seller shall furnish to the Purchaser and its Representatives such financial, operating and property related data and other information as such Persons reasonably request. Each Seller shall use commercially reasonable efforts to cause its Representatives to reasonably cooperate with the Purchaser and the Purchaser's Representatives in connection with such investigations and examinations.

### 8.3 Assignability of Certain Contracts, Etc.

(a) To the extent that the assignment to the Purchaser of any Purchased Asset pursuant to this Agreement is not permitted without the consent, waiver, confirmation or other approval of a third party or is prohibited by applicable Law and such consent, waiver, confirmation or other approval or waiver of such prohibition in compliance with Law cannot be obtained prior to the Closing or overridden or canceled by the Confirmation Order or other related order of the Bankruptcy Court (such Purchased Assets, the "Nonassignable Assets"), then this Agreement will not be deemed to constitute an assignment of or an undertaking or attempt to assign such Nonassignable Asset or any right or interest therein unless and until such consent, waiver, confirmation or other approval is obtained or such prohibition is waived in compliance with Law.

(b) If any such consent, waiver, confirmation or other approval or such waiver is not obtained prior to the Closing Date in respect of a Nonassignable Asset, then, solely to the extent not prohibited under applicable Law (including, without limitation, the Bankruptcy Code) or the terms of such Nonassignable Asset, the Purchaser and the Sellers shall reasonably cooperate with each other, as of and after the Closing Date, in any lawful and feasible arrangement designed to provide the Purchaser with the benefits and obligations of such Nonassignable Asset (an "Interim Arrangement"). The Purchaser shall be responsible for performing all obligations under each such Nonassignable Asset required to be performed by the Sellers after the Closing Date to the extent that if such Nonassignable Asset were purchased by the Purchaser as of the Closing Date, the obligations thereunder would have constituted Assumed Liabilities.

(c) All Interim Arrangements shall be at the Purchaser's sole cost and expense; provided, however, that any such costs or expenses incurred by the Purchaser or the Sellers in connection with an Interim Arrangement shall be paid for or reimbursed from the Purchase Price Adjustment Escrow Amount until the earlier of (i) such time as the Purchase Price Adjustment Escrow Amount has been released to the Sellers pursuant to Section 2.4(h) (except that claims by the Purchaser under this Section 8.3 made prior to the delivery of an instruction letter from the Sellers instructing such release shall remain subject to the terms of the Escrow Agreement) and (ii) such time when no Purchase Price Adjustment Escrow Amount otherwise remains in the Escrow Account, after which time such costs and expenses shall be

borne solely and directly by the Purchaser. In order for a payment or reimbursement to be made from the Escrow Account on account of any such costs or expenses, the Sellers or the Purchaser shall be entitled to deliver to the Escrow Agent a letter instructing the Escrow Agent to pay to the Sellers or the Purchaser, as applicable, from the Purchase Price Adjustment Escrow Amount the amount specified in such instruction letter and the distribution of such amount by the Escrow Agent shall be subject to the terms of the Escrow Agreement.

(d) Unless the Purchaser elects that it does not desire assignment of a Nonassignable Asset, following the Closing, the Sellers and the Purchaser shall cooperate using their respective commercially reasonable efforts (at the Purchaser's sole cost and expense) to obtain as expeditiously as possible the applicable consent, waiver, confirmation or other approval with respect to each Nonassignable Asset and/or a waiver of any prohibition under applicable Law necessary for the assignment thereof to the Purchaser.

(e) Nothing in this Section 8.3 shall obligate the Purchaser to waive any right or condition under this Agreement.

8.4 Rejected Contracts. No Seller shall reject any Assigned Contract in the Chapter 11 Cases or any other bankruptcy proceeding following the Execution Date without the prior written consent of the Purchaser.

8.5 Further Agreements. After the Closing, each Seller shall (i) promptly deliver to the Purchaser any mail or other communication received by such Seller and relating to the Business, the Purchased Assets or the Assumed Liabilities, (ii) promptly transfer in immediately available funds to the Purchaser any cash, electronic credits or deposits received by such Seller but solely to the extent that such cash, electronic credits or deposits are Purchased Assets and (iii) promptly forward to the Purchaser any checks or other instruments of payment that it receives but solely to the extent that such checks or other instruments are Purchased Assets. After the Closing, each of the Sellers shall permit, and each of the Sellers hereby authorizes, the Purchaser to collect, in the name of such Seller, all Accounts Receivable constituting part of the Purchased Assets and to endorse with the name of such Seller for deposit in the Purchaser's account any checks or drafts received in payment thereof. After the Closing, the Purchaser shall (x) promptly deliver to the Sellers any mail or other communication received by the Purchaser and relating to the Excluded Assets or the Excluded Liabilities, (y) promptly wire transfer in immediately available funds to the Sellers, any cash, electronic credits or deposits received by the Purchaser but solely to the extent that such cash, electronic credits or deposits are Excluded Assets and (z) promptly forward to the Sellers any checks or other instruments of payment that it receives but solely to the extent that such checks or other instruments are Excluded Assets. From and after the Closing Date, the Sellers shall refer all inquiries with respect to the Business, the Purchased Assets and the Assumed Liabilities to the Purchaser, and the Purchaser shall refer all inquiries with respect to the Excluded Assets and the Excluded Liabilities to the Sellers.

#### 8.6 Consent and Approvals.

(a) Prior to Closing, the Sellers shall, at their sole cost and expense: (i) use their commercially reasonable efforts, as promptly as practicable, to obtain all approvals, authorizations, clearances, consents and waivers of, and to file all notices and other filings with,

regulatory and other Governmental Bodies and all other Persons (including, without limitation, those set forth in Sections 4.4(a) and 4.4(b) of the Seller Disclosure Schedule) that are necessary or required of the Sellers to consummate the transactions set forth herein; (ii) provide such other information and communications to regulatory and other Governmental Bodies and other Persons as the Purchaser or such Governmental Bodies or other Persons may reasonably request; and (iii) provide reasonable cooperation to the Purchaser in obtaining or making, as soon as practicable, all approvals, authorizations, clearances, consents, waivers, notices and filings of or with regulatory and other Governmental Bodies and all other Persons required of the Purchaser to consummate the transactions set forth herein.

(b) To the extent any filing is required under the HSR Act or any foreign competition Law, the Purchaser and each of the Sellers shall, or shall cause its “ultimate parent entity” (as such term is defined by the rules to the HSR Act, “UPE”), if any, to promptly prepare and file all necessary documentation and effect all applications that are required thereunder with respect to the transactions contemplated under this Agreement. Each of the Purchaser and the Sellers shall furnish to the other such necessary information and reasonable assistance as the other may reasonably request in connection with its preparation of any filing or submission which is necessary under the HSR Act or any foreign competition Law. The Sellers and the Purchaser shall keep each other apprised of the status of any communications with, and any inquiries or requests for additional information from, the United States Federal Trade Commission, the United States Department of Justice or any other Governmental Body. If such a filing is made, the Purchaser and each of the Sellers shall or shall cause its UPE, if any, to seek early termination of the waiting period under the HSR Act or any foreign competition Law and use its reasonable best efforts to obtain as promptly as possible any clearance required for the consummation of the transactions contemplated under this Agreement. Anything herein to the contrary notwithstanding, (i) neither the Purchaser nor any of its UPE or Affiliates shall be required to (x) disclose to any other party hereto any information contained in its HSR Notification and Report Form or any other form or filing under any foreign competition Law which such party, in its sole discretion, deems confidential, except as may be required by applicable Law as a condition to the expiration or termination of the applicable waiting period under the HSR Act or any applicable foreign competition Law with respect to the transactions contemplated under this Agreement, (y) hold separate (including by trust or otherwise) or divest any of its businesses or assets or agree to any condition, restraint or limitation relating to its ability to freely own or operate all or a portion of its businesses or assets or (z) hold separate (including by trust or otherwise) or divest any assets of any of the Sellers; and (ii) in connection with seeking clearance or approval from any Governmental Body, neither any of the Sellers nor any of their respective UPEs shall, without the Purchaser’s prior written consent, commit to any divestiture transaction, or commit to alter any Seller’s businesses or commercial practices in any way, or otherwise take or commit to take any action that limits the Purchaser’s freedom of action with respect to, or the Purchaser’s ability to retain or otherwise receive the full benefits of, this Agreement. Notwithstanding Section 8.6(a), the payment of any applicable filing fees (but not the costs or expenses of preparing any applicable filings) under the HSR Act or any foreign competition Law shall be borne by the Purchaser.

## 8.7 Preservation of Records; Post-Closing Access to Information.

(a) The Sellers and the Purchaser agree that each of them shall preserve and keep the records held by them or their Affiliates relating to the Business, the Purchased Assets and the Assumed Liabilities until the later of the closing of the Chapter 11 Cases and the liquidation and winding up of the Sellers' estates (but in no event later than three (3) years after the Closing Date except, in the case of Tax matters, until thirty (30) days following the expiration of the period of any applicable statute of limitations) and shall make such records available to the other party as may be reasonably required by such other party in connection with, among other things, any insurance claims by, actions or tax audits against or governmental investigations of the Sellers or the Purchaser or any of their respective Affiliates or in order to enable the Sellers or the Purchaser to comply with their respective obligations under this Agreement or any of the Ancillary Agreements and each other agreement, document or instrument contemplated hereby or thereby. In the event the Sellers or the Purchaser wishes to destroy such records at the end of such preservation period, such party shall first give sixty (60) days' prior written notice to the other party and such other party shall have the right at its option and expense, upon prior written notice given to such party within such sixty (60) day period, to take possession of the records within one hundred and twenty (120) days after the date of such notice, or such shorter period as the liquidation and winding up of the Sellers' estates shall permit.

(b) Until the closing of the Chapter 11 Cases, the Purchaser shall give the Sellers and the Sellers' Representatives reasonable access, during normal business hours, upon reasonable advance written notice (which notice shall specify the intended use or purpose of such access) and in a manner as would not be unreasonably disruptive to the business or operations of the Purchaser or any of its Subsidiaries, to the Purchaser's offices, facilities, plants, properties, assets, employees and Documents that were included in the Purchased Assets pertaining to (A) the conduct of the Business or ownership of the Purchased Assets prior to the Closing Date or (B) the Excluded Assets and the Excluded Liabilities, to the extent necessary for, and solely in order for, the Sellers to effect the wind down of their Chapter 11 estates, including, without limitation, reconciling and objecting to claims in the Chapter 11 Cases and compiling and filing tax returns. Subject to the terms of a mutually acceptable services agreement providing for the reimbursement to the Purchaser for its reasonable costs and expenses and the payment to the Purchaser of reasonable fees and expenses for services provided by the Purchaser thereunder, the Purchaser will use commercially reasonable efforts to cause its Representatives to furnish to the Sellers such financial, technical, operating and other information pertaining to (i) the conduct of the Business or ownership of the Purchased Assets prior to the Closing Date or (ii) the Excluded Assets and the Excluded Liabilities, in each case, as the Sellers' Representatives shall from time to time reasonably request in a written notice (which notice shall specify the intended use or purpose of any such information) and to discuss such information with such Representatives to the extent necessary for, and solely in order for, the Sellers to effect the wind down of their Chapter 11 estates. Notwithstanding the foregoing, the Purchaser shall not be required to provide any such access, or cause its Representatives to furnish any such information, to the extent that doing so, in the reasonable judgment of the Purchaser, would (I) constitute a waiver of the attorney-client privilege or (II) be detrimental to the Purchaser or its assets, properties, condition or operations. The Sellers acknowledge and agree that any and all information received from or on behalf of, or made available by or on behalf of, the Purchaser pursuant to this Section

8.7(b) shall be used solely as specified in any applicable written notice requesting such information and shall be subject to the terms of the confidentiality provision in Section 8.13. In addition, the Sellers agree that only those Representatives who require the receipt of information for the purposes allowed hereunder and who have been informed by Sellers of the confidential nature of such information and the confidentiality obligations of the Sellers as set forth in Section 8.13 shall be provided access to such information.

(c) Until the closing of the Chapter 11 Cases, the Sellers shall give the Purchaser and the Purchaser's Representatives reasonable access, during normal business hours, upon reasonable advance written notice (which notice shall specify the intended use or purpose of such access) and in a manner as would not be unreasonably disruptive to the Sellers and the wind down of their estates, to the properties, assets and Documents included in the Excluded Assets pertaining to the conduct of the Business. Notwithstanding the foregoing, the Sellers shall not be required to provide any such access, or cause their Representatives to furnish any such information, to the extent that doing so, in the reasonable judgment of the Sellers, would (I) constitute a waiver of the attorney-client privilege or (II) be detrimental to the Sellers or their assets, properties, condition or operations. The Purchaser acknowledges and agrees that any and all information received from or on behalf of, or made available by or on behalf of, the Sellers pursuant to this Section 8.7(c) shall be used solely as specified in any applicable written notice requesting such information and shall be subject to the terms of a mutually agreeable confidentiality agreement to be entered into by the Purchaser and the Sellers. In addition, the Purchaser agrees that only those Representatives who require the receipt of information for the purposes allowed hereunder and who have been informed by the Purchaser of the confidential nature of such information and the confidentiality obligations of the Purchaser as set forth in the applicable confidentiality agreement shall be provided access to such information. In connection with the foregoing, Sellers shall, at the Purchaser's sole cost and expense, use commercially reasonable efforts to cause their Representatives to furnish to the Purchaser such financial, technical, operating and other information pertaining to the Business (to the extent known) as the Purchaser or the Purchaser's Representatives shall from time to time reasonably request and to discuss such information with such Representatives.

**8.8 Publicity.** The Sellers and the Purchaser agree to communicate with each other and cooperate with each other prior to any public disclosure of this Agreement or the transactions contemplated hereby. Each of the Sellers and the Purchaser agree that it shall not issue, and it shall cause its respective Affiliates and Representatives not to issue, any public release or public announcement concerning this Agreement or the transactions contemplated hereby without the prior written consent of the other party, except as such release or announcement may be required by applicable Law or by the Bankruptcy Court (which shall include the filings to be made with the Bankruptcy Court in connection with this Agreement), in which case the party required to make the release or announcement shall allow the other party reasonable time to comment on such release or announcement in advance of such issuance. Unless otherwise required by the Bankruptcy Court, this Agreement shall be filed with the Bankruptcy Court without Disclosure Schedules or Exhibits designated by the Purchaser. For purposes of this Section 8.8, the Sellers may freely communicate with their employees regarding this Agreement and the sale of the Purchased Assets; provided, however, that prior to making any written communications to their employees pertaining to compensation or benefit matters that are affected by the transactions contemplated by this Agreement, the Sellers shall provide



the Purchaser with a copy of the intended communication, the Purchaser shall have a reasonable period of time to review and comment on the communication, and the Purchaser and the Sellers shall cooperate in providing any such mutually agreeable communication.

#### 8.9 Notification of Certain Matters.

(a) The Sellers shall give prompt notice to the Purchaser, and the Purchaser shall give prompt notice to the Sellers, of (i) any notice or other communication from any Person alleging that the consent of such Person which is or may be required in connection with the transactions contemplated by this Agreement is not likely to be obtained prior to Closing and (ii) any written objection or Action that challenges the transactions contemplated hereby or the entry of any Bankruptcy Court Order.

(b) To the extent permitted by applicable Law, the Sellers shall give prompt notice to the Purchaser of (i) any notice of any alleged violation of Law applicable to any Seller, (ii) the commencement of any investigation, inquiry or review by any Governmental Body with respect to the Business or that any such investigation, inquiry or review is, to the Knowledge of any Seller, contemplated, (iii) the Sellers' Knowledge of any infringement or unauthorized use by any Person of any material Intellectual Property and (iv) any event or circumstance that would result in any representation or warranty of any Seller being untrue or any covenant or agreement of any Seller not being performed or complied with such that the conditions set forth in Section 9.3(a), Section 9.3(b), Section 9.3(c) or Section 9.3(d) would not be satisfied if such event or circumstance existed on the Closing Date.

(c) No information received by the Purchaser pursuant to this Section 8.9 nor any information received or learned by the Purchaser or any of its Representatives pursuant to an investigation made under Section 8.2 shall be deemed to (i) qualify, modify, amend or otherwise affect any representations, warranties, conditions, covenants or other agreements of any Seller set forth in this Agreement or any of the Seller Ancillary Agreements, (ii) amend or otherwise supplement the information set forth in the Seller Disclosure Schedule, (iii) limit or restrict the remedies available to the Purchaser under this Agreement, applicable Law or otherwise arising out of a breach of this Agreement, or (iv) limit or restrict the ability of the Purchaser to invoke or rely on, or effect the satisfaction of, the conditions to the obligations of the Purchaser to consummate the transactions contemplated by this Agreement set forth in Article 9.

8.10 Prohibition on Use of Purchased Names. Each Seller hereby agrees that, on and at all times following the Closing Date, it shall not use and shall cease using, and shall cause its respective Affiliates not to use and to cease using, directly or indirectly, the Purchased Names and any like names or combinations of words or derivations thereof or any names or marks confusingly similar thereto; provided, however, that each Seller may use the Purchased Names solely for purposes of closing the Chapter 11 Cases; and provided, further, that notwithstanding any other provision of this Agreement, to the extent the Sellers use the Purchased Names in connection with closing the Chapter 11 Cases in any publicly filed document or in communication with former customers, suppliers or vendors of the Sellers, the Sellers (and their successors in interest, including any trustee or estate representative appointed in the Chapter 11 Cases or any successor Chapter 7 case) shall not use such Purchased Names in the caption, title or header of such documentation or communication and shall only be permitted to use the

Purchased Names to clarify that they are the successors in interest to the Debtors and that they no longer use such Purchased Names. Prior to the Closing Date, each Seller shall, at its expense, undertake and promptly pursue all necessary action to change its business and corporate names to new names bearing no resemblance to any of its present names so as to permit the use of the Purchased Names by the Purchaser or any of its Subsidiaries following Closing. In furtherance of the foregoing, each Seller will (a) revoke any filing that it may have made heretofore with any Governmental Body relating to its use of the Purchased Names and of any like names or combinations of words or derivations thereof; and (b) prepare and file with the appropriate Governmental Bodies appropriate documents, including, without limitation, articles of amendment, changing its name so as to effectuate the same and promptly deliver evidence of such name change to the Purchaser.

8.11 Further Assurances.

(a) Subject to the terms and conditions of this Agreement and applicable Law, each Seller and the Purchaser shall use their respective commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable to ensure that the conditions precedent to the other parties' obligations hereunder set forth in this Agreement are satisfied and to consummate and make effective the transactions contemplated by this Agreement as soon as practicable.

(b) Subject to the terms and conditions of this Agreement, neither the Sellers nor the Purchaser shall take any action or refrain from taking any action the effect of which would be to delay or impede the ability of the Sellers or the Purchaser to consummate the transactions contemplated by this Agreement unless taking such action or refraining from taking such action is required by applicable Law.

(c) Following the Execution Date and until the earlier of the Closing Date and the date on which this Agreement is terminated in accordance with Section 3.4, the Sellers, on the one hand, and the Purchaser, on the other hand, shall keep each other reasonably informed as to the status of matters relating to the completion of the transactions contemplated hereby, including promptly furnishing the other with copies of notices or other communications received by the Sellers or the Purchaser or by any of their respective Affiliates (as the case may be), from any third party and/or any Governmental Body with respect to the transactions contemplated by this Agreement.

(d) Subject to the terms and conditions of this Agreement, at and following the Closing, each of the parties shall execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and acquaintances and such other instruments, and cooperate and take such further actions, as may be reasonably necessary or appropriate to transfer and assign fully to the Purchaser and its successors and assigns, all of the Purchased Assets, and for the Purchaser and its successors and assigns to assume the Assumed Liabilities, and to otherwise make effective the transactions contemplated hereby. Nothing in this Section 8.11 shall obligate any party hereto to waive any right or condition under this Agreement.

(e) The obligations of the Sellers pursuant to this Section 8.11 shall be subject to any orders, approvals or authorizations granted or required by the Bankruptcy Court or under

the Bankruptcy Code (including in connection with the Chapter 11 Cases), and each Seller's obligations as a debtor in possession to comply with any order of the Bankruptcy Court (including the Approval Order), and the Sellers' duty to seek and obtain the highest or otherwise best price for the Business in compliance with, and not in a manner inconsistent with, the Bid Procedures, as approved by the Bid Procedures Order.

8.12 Expenses. No later than 5:00 p.m. (New York City time) on the date that is two (2) Business Days following the date on which the Bankruptcy Court enters the Bid Procedures Order, the Sellers shall pay in cash to the Purchaser or its designee an amount up to \$1,750,000 (the "Expense Amount") in respect of the reasonable documented fees and disbursements of the Purchaser's Counsel incurred by the Purchaser or any of its Affiliates through (and including) the date on which the Bankruptcy Court enters the Bid Procedures Order in connection with (a) the negotiation, preparation, documentation, execution, delivery, implementation and/or consummation of this Agreement and the transactions contemplated hereby and (b) the restructuring of the Sellers and the negotiation, preparation, documentation, execution, delivery, implementation, filing and/or consummation of the Chapter 11 Cases and the Plan, the Disclosure Statement and all related agreements, pleadings, motions filings and documents; provided, however, that if the Sellers are prevented from paying all or any portion of the Expense Amount on the date referred to above pursuant to the terms of the Bid Procedures Order, the Expense Amount (or portion thereof prevented from being paid on such date) shall be paid on the earlier to occur of (i) the termination of this Agreement pursuant to Section 3.4 (other than a termination pursuant to Section 3.4(m) or Section 3.4(n)) and (ii) the Closing Date. The Sellers shall use commercially reasonable efforts to ensure that the Bid Procedures Order permits the Sellers to pay the entire Expense Amount as set forth in the immediately preceding sentence on or prior to 5:00 p.m. (New York City time) on the date that is two (2) Business Days following the date on which the Bankruptcy Court enters the Bid Procedures Order. To the extent the Sellers are not permitted to pay the Expense Amount pursuant to the terms of the Bid Procedures Order, the Expense Amount shall constitute an allowed super-priority administrative claim against the Sellers' estates under sections 503(b) and 507(a)(1) of the Bankruptcy Code (except for the "Carve Out" under the DIP Credit Agreement, which shall be senior in priority to the Break-Up Fee, the Reimbursement Amount, the Collection Costs and the Expense Amount).

8.13 Confidentiality. Following the Closing, the Sellers shall, and the Sellers shall use reasonable efforts to cause their respective Affiliates and Representatives to, maintain as confidential and not use or disclose (except as may be necessary in the administration of their Chapter 11 estates, as otherwise required by Law or as authorized in writing by the Purchaser) (i) any information or materials relating to the Business, the Transferred Employees, the Purchased Assets, the Assumed Liabilities and/or the operations and affairs of the Sellers or the Foreign Subsidiaries (other than the Excluded Assets) and (ii) any materials developed by the Purchaser or any of its Representatives or provided by the Purchaser or any of its Representatives to any Seller. Except as otherwise permitted and provided above, in the event any Seller is required by Law to disclose any such information or materials, except to the extent prohibited by applicable Law, such Seller shall promptly notify the Purchaser in writing, which notification shall include the nature of the legal requirement and the extent of the required disclosure, and shall reasonably cooperate with the Purchaser, at the Purchaser's sole expense, to obtain a protective order and otherwise preserve the confidentiality of such information or materials consistent with applicable Law. Information and materials subject to the confidentiality obligations in this Section 8.13 do

not include any information or materials which (x) at the time of disclosure is generally available to or known by the public (other than as a result of the disclosure of such information or materials in breach of this Agreement) or (y) becomes available to the Sellers or their Representatives (including any plan administrator) on a non-confidential basis from a Person who is not bound by a confidentiality agreement with the Purchaser or its Affiliates.

8.14 Trademark Applications. The Sellers hereby covenant and agree (a) to file, or cause to be filed, with the United States Patent and Trademark Office, no later than five (5) Business Days after the Execution Date, trademark applications, in the name of the applicable Seller(s), for the marks in connection with goods and services, corresponding to the cancelled trademarks listed on Schedule 8.14 based upon the applicable Seller(s) date of first use (“Applications”); and (b) to prosecute the Applications in a timely manner in order to secure corresponding trademark registrations (“Trademark Registrations”). Immediately following the Closing Date, the Sellers and the Purchaser shall cooperate (at the Purchaser’s expense) to assign all rights, title and interest in and to the Trademark Registrations and the Applications (including all goodwill associated therewith) to the Purchaser so that it may, subject to the next sentence, hold such Trademark Registrations and continue to prosecute such Applications and, in connection therewith, the Sellers agree to execute any document reasonably requested by the Purchaser in connection therewith. If, following the Closing Date, the Trademark Registrations have not yet been issued, the Sellers agree to provide all reasonable assistance requested by the Purchaser, at the Purchaser’s expense, to obtain such Trademark Registrations.

8.15 Tax Clearance Certificates. At the Purchaser’s request, the Sellers shall promptly notify each applicable Governmental Body in the jurisdictions set forth on Schedule 8.15 of the transactions contemplated by this Agreement in the form and manner required by such Governmental Bodies, if the failure to make such notifications or receive any available tax clearance certificate (“Tax Clearance Certificate”) could subject the Purchaser to Liability for any Taxes of a Seller or for increased Taxes as a result of the transactions contemplated by this Agreement. The Purchaser may instead elect, in its sole discretion, to make such notifications itself, in which case such notifications shall be in form and substance reasonably acceptable to the Purchaser and the Sellers (it being understood and agreed that any notification prepared in the form and manner required by any such Governmental Body shall be deemed reasonably acceptable to the Purchaser and the Sellers), and the Sellers hereby (i) authorize the Purchaser to do so and (ii) agree to furnish to the Purchaser such necessary information and reasonable assistance as the Purchaser may reasonably request in connection with its preparation of such notifications. Any notifications to be provided by the Sellers as described above in this Section 8.15 shall be in form and substance acceptable to the Purchaser. If, in respect to any application for Tax Clearance Certificates made pursuant to this Section 8.15, any Governmental Body asserts that a Seller is liable for any Tax (an “Alleged Tax Liability”), then, at the election of the Purchaser, (a) the Sellers shall promptly pay any and all such Alleged Tax Liabilities and shall provide evidence to the Purchaser that such Alleged Tax Liabilities have been paid in full or otherwise satisfied; provided, however, that the Sellers shall not be required to pay any such Alleged Tax Liabilities until the same are due and payable, and in no event prior to the Closing, or (b) the Purchaser may withhold an amount from the Closing Date Purchase Price equal to the amount of any Alleged Tax Liabilities (such amounts, in the aggregate, the “Aggregate Alleged Tax Liability Amount”) and shall pay such amounts to the applicable Governmental Body that

has asserted the applicable Alleged Tax Liability when such amounts are due and payable, and in no event prior to the Closing.

## ARTICLE 9.

### CONDITIONS TO CLOSING

9.1 Conditions Precedent to the Obligations of Purchaser and Sellers. The respective obligations of each party to this Agreement to consummate the transactions contemplated by this Agreement are subject to the satisfaction or written waiver, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Sellers and the Purchaser, in whole or in part, to the extent permitted by applicable Law):

(a) no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the transactions contemplated hereby shall have been issued, nor shall any proceeding or other Action brought by a domestic or foreign administrative agency or commission or other domestic or foreign Governmental Body seeking any of the foregoing be pending or threatened in writing; nor shall there be any action taken, or any statute, rule, regulation, order or other Law promulgated, enacted, entered, enforced or deemed applicable to the parties hereto which makes the consummation of the transactions contemplated by this Agreement illegal, void or rescinded;

(b) all authorizations, consents, orders or approvals of, or declarations or filings with, or expirations of waiting periods imposed by, any Governmental Body, including those contemplated by the HSR Act, any foreign competition Law and those set forth on Schedule 9.1(b), that are legally required for the consummation of the transactions contemplated by this Agreement, shall have been filed, occurred or been obtained; and

(c) the Bankruptcy Court shall have entered the Approval Order and the Confirmation Order, and each such order shall be a Final Order.

9.2 Conditions Precedent to the Obligations of the Sellers. The obligations of the Sellers to consummate the transactions contemplated by this Agreement are subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Sellers, in whole or in part, to the extent permitted by applicable Law):

(a) each of (i) the representations and warranties of the Purchaser in this Agreement that are not qualified as to “materiality” or “material adverse effect” shall be true and correct in all material respects and (ii) the representations and warranties of the Purchaser in this Agreement that are qualified as to “materiality” or “material adverse effect” shall be true and correct, in each case of clauses (i) and (ii), at and as of the Execution Date and at and as of the Closing Date as if made at and as of the Closing Date (except for representations and warranties made as of a specified date, which shall be true and correct only as of the specified date), and the Sellers shall have received a certificate signed by an authorized person of the Purchaser, dated the Closing Date, to the foregoing effect;

(b) the Purchaser shall have performed and complied in all material respects with all obligations and agreements required by this Agreement to be performed or complied with by the Purchaser on or prior to the Closing Date, and the Sellers shall have received a certificate signed by an authorized person of the Purchaser, dated the Closing Date, to the foregoing effect;

(c) the Purchaser shall have delivered, or caused to be delivered, to the Sellers (or at the direction of the Sellers) all of the items set forth in Section 3.3; and

(d) the Purchaser shall have delivered to the Sellers appropriate evidence of all necessary limited liability company action by the Purchaser in connection with the transactions contemplated hereby, including, without limitation: (i) certified copies of resolutions (or a written consent) duly adopted by the Purchaser's governing body approving the transactions contemplated by this Agreement and the Purchaser Ancillary Agreements, and authorizing the execution, delivery and performance by the Purchaser of this Agreement and the Purchaser Ancillary Agreements; and (ii) a certificate as to the incumbency of officers of the Purchaser executing this Agreement and the Purchaser Ancillary Agreements.

9.3 Conditions Precedent to the Obligations of the Purchaser. The obligations of the Purchaser to consummate the transactions contemplated by this Agreement are subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Purchaser, in whole or in part, to the extent permitted by applicable Law):

(a) each of (i) the representations and warranties of each Seller in this Agreement that are not qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all material respects and (ii) the representations and warranties of each Seller in this Agreement that are qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects, in each case of clauses (i) and (ii), at and as of the Execution Date (except for representations and warranties made as of a specified date, which shall be true and correct only as of the specified date); provided, however, that with respect to the representation and warranty made in Section 4.27, any undisclosed Excluded Liability shall not be considered for purposes of determining whether such representation and warranty was true and correct at and as of the Execution Date for purposes of this Section 9.3(a), and the Purchaser shall have received a certificate signed by an authorized officer of each Seller, dated the Closing Date, to the foregoing effect;

(b) each of (i) the representations and warranties of each Seller set forth in Section 4.1, Section 4.3, Section 4.5(r), Section 4.10, and Section 4.11(a) shall be true and correct in all respects and (ii) the other representations and warranties of each Seller in this Agreement shall be true and correct in all respects (without regard for any "materiality" or "Material Adverse Effect" qualifiers set forth therein) except where the failure of such representations and warranties to be so true and correct would not, individually or in the aggregate, have a Material Adverse Effect, in each case of clauses (i) and (ii), at and as of the Closing Date as if made at and as of the Closing Date (except for representations and warranties made as of a specified date, which shall be true and correct only as of the specified date), and the

Purchaser shall have received a certificate signed by an authorized officer of each Seller, dated the Closing Date, to the foregoing effect;

(c) each Seller shall have performed and complied in all material respects with all obligations and agreements required in this Agreement to be performed or complied with by such Seller on or prior to the Closing Date, and the Purchaser shall have received a certificate signed by an authorized officer of such Seller, dated the Closing Date, to the foregoing effect;

(d) the Sellers shall have delivered, or caused to be delivered, to the Purchaser all of the items set forth in Section 3.2;

(e) the Purchaser shall have received from the Sellers duly executed copies of all the consents, approvals, orders and/or Permits (as applicable), or evidence of the making or filing of the registrations, declarations, notifications and/or filings (as applicable), set forth on Schedule 9.3(e) (and any other material consents, approvals, orders and/or Permits (as applicable), or evidence of the making or filing of the material registrations, declarations, notifications and/or filings (as applicable), that should have been included by the Sellers in Sections 4.4(a) and/or 4.4(b) of the Seller Disclosure Schedule as of the Execution Date, but which were omitted from such Sections of the Seller Disclosure Schedule); and all of such consents, approvals, orders, Permits, registrations, declarations, notifications and/or filings (as applicable) shall be in form and substance reasonably satisfactory to the Purchaser and shall be in full force and effect as of the Closing;

(f) the Plan, as approved by the Bankruptcy Court, shall be in form and substance acceptable to the Purchaser as it relates to any of the Specified Matters (it being understood and agreed that the copy of the Plan provided to the Purchaser on the Execution Date is in form and substance satisfactory to the Purchaser);

(g) the Disclosure Statement, as approved by the Bankruptcy Court, shall be in form and substance acceptable to the Purchaser as it relates to any of the Specified Matters (it being understood and agreed that the copy of the Disclosure Statement provided to the Purchaser on the Execution Date is in form and substance satisfactory to the Purchaser);

(h) the conditions to confirmation and the conditions to the Effective Date set forth in the Plan shall have been satisfied or waived in accordance with the Plan, and the Effective Date shall have occurred

(i) each Seller that holds a seller's permit under the Laws of the State of Wisconsin shall have delivered its seller's permit to the Wisconsin Department of Revenue for cancellation in accordance with the Laws of the State of Wisconsin;

(j) on the Closing Date, the Sellers shall have an aggregate amount of cash on hand of not less than \$19,000,000 (excluding the RG Tube/RGCH Cash Amount and including the IRB Payoff Cash Amount); and

(k) since the Execution Date, there shall not have occurred a Material Adverse Effect.

## ARTICLE 10.

### DEFINITIONS

#### 10.1 Certain Definitions. As used herein:

(a) “Accounts Receivable” means (i) any and all accounts receivable, trade accounts and other amounts receivable (including any Inter-Company Receivables) owed to any Seller and any other rights of any Seller to payment from third parties, including, without limitation, those reflected (or required to be reflected under GAAP) in the books and records of such Seller, and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped, products sold or services rendered, in each case owing to such Seller; (ii) all other accounts or notes receivable of any Seller and the full benefit of all security for such accounts or notes receivable; and (iii) any and all claims, remedies or other rights relating to any of the foregoing, together with any interest or unpaid financing charges accrued thereon.

(b) “Affiliate” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by Contract or otherwise.

(c) “Agreed Principles” means GAAP using accounting methods, practices, principles, policies and procedures and classifications, judgments and valuation, estimation and accrual methodologies, that were used in the preparation of the Audited Balance Sheet.

(d) “Alternative Transaction” means (i) any financing, refinancing, acquisition, divestiture, sale, business combination, restructuring or reorganization of or involving the Business or all or substantially all of the consolidated assets of the Sellers or all or substantially all of the equity securities of the Sellers, whether proposed to be effected pursuant to a merger, consolidation, share exchange, amalgamation, foreclosure, compromise, sale, issuance, transfer or redemption of any assets or securities of any Seller or any successor thereto, other than the sale of the Purchased Assets to the Purchaser in accordance with the terms hereof, or (ii) the filing of a plan of reorganization that does not contemplate the sale of the Purchased Assets to the Purchaser in accordance with the terms hereof.

(e) “Ancillary Agreements” means, collectively, the Purchaser Ancillary Agreements and the Seller Ancillary Agreements.

(f) “Approval Motion” means, individually or collectively (as the context may require), the Bid Procedures Motion and the Disclosure Statement Motion.

(g) “Approval Order” means, individually or collectively (as the context may require), the Bid Procedures Order and the Disclosure Statement Order.



(h) “Assumption and Assignment Procedures” means the procedures for assumption, assignment and/or transfer of the Assigned Contracts as set forth in the Bid Procedures Order (including the procedures set forth in the Notice of Assumption and Assignment or any Supplemental Notice of Assumption and Assignment (each as defined in the Bid Procedures Order)) and the Plan.

(i) “Auction” has the meaning ascribed to such term in the Bid Procedures Order.

(j) “Base Net Working Capital Value” means \$71,800,000.

(k) “Bid Procedures” has the meaning ascribed to such term in the Bid Procedures Order.

(l) “Bid Procedures Motion” means the motion to be filed by the Sellers in the Chapter 11 Cases seeking entry of the Bid Procedures Order.

(m) “Bid Procedures Order” means an order of the Bankruptcy Court that, among other things, approves the Bid Procedures, including the Break-Up Fee, the Reimbursement Amount, the Collection Costs and the Expense Amount, in the form of Exhibit C attached hereto or such other form as the Purchaser may approve in its discretion as it relates to any of the Specified Matters.

(n) “Business” means any and all business activities of any kind that are conducted by the Sellers as of the Execution Date or at any time through (and including) the Closing Date, including, among other things, designing, manufacturing, distributing and selling stainless steel and alloy tubular products.

(o) “Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or required by Law to be closed.

(p) “Cash and Cash Equivalents” means all of the Sellers’ cash (including petty cash and checks received prior to the close of business on the Closing Date), checking account balances, marketable securities, certificates of deposits, time deposits, bankers’ acceptances, commercial paper, government securities and other cash equivalents (but specifically excluding any cash tendered as a component of the Purchase Price).

(q) “Closing Date Net Working Capital” means, as of the Closing Time immediately prior to giving effect to the Closing, (a) the sum of (i) the total current assets of the Sellers that are Purchased Assets (other than Cash and Cash Equivalents) and the current assets of the Foreign Subsidiaries (as defined by and determined in accordance with GAAP applied on a basis consistent with the Agreed Principles), including any tax refunds but excluding any other deferred income tax assets or other income tax assets and excluding any receivables from any Seller’s Affiliates, directors, managers, employees, officers or equity holders (other than any Inter-Company Receivables) and (ii) all Cash and Cash Equivalents of the Sellers and the Foreign Subsidiaries (other than (x) Cash held outside the United States that may not be repatriated therefrom, (y) any trust funds established under any deferred compensation program

or employee benefit program of any of the Sellers or any of the Foreign Subsidiaries and (z) the RG Tube/RGCH Cash Amount) (as defined by and determined in accordance with GAAP applied on a basis consistent with the Agreed Principles), minus (b) the total current liabilities of the Sellers that are Assumed Liabilities (including all Cure Costs set forth on the Original Contract & Cure Schedule) and the current liabilities of the Foreign Subsidiaries (as defined by and determined in accordance with GAAP applied on a basis consistent with the Agreed Principles). For purposes of calculating the Closing Date Net Working Capital (and solely for purposes of such calculation), any Alleged Tax Liabilities (other than (A) Alleged Tax Liabilities the amount of which is withheld by the Purchaser from the Closing Date Purchase Price pursuant to Section 8.15 and (B) Alleged Tax Liabilities that are paid by the Sellers) that the Purchaser pays, becomes liable or otherwise responsible to pay, or is alleged to be liable or otherwise responsible to pay, shall be deemed to be a current liability of the Sellers as of the Closing Time that is an Assumed Liability. Subject to the other provisions of this definition, Schedule 10.1(q) sets forth the current asset and current liability line items to be used in calculating the Closing Date Net Working Capital.

(r) “Closing Time” means 5:00 p.m. (New York City time) on the Closing Date.

(s) “Code” means the Internal Revenue Code of 1986, as amended.

(t) “Confirmation Hearing” means a hearing seeking the confirmation of the Plan pursuant to the Confirmation Order and section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

(u) “Confirmation Order” means the order of the Bankruptcy Court, in form and substance satisfactory to the Purchaser as it relates to any of the Specified Matters, confirming the Plan pursuant to section 1129 of the Bankruptcy Code and which shall, among other things, (i) authorize the sale of the Purchased Assets to the Purchaser pursuant to this Agreement free and clear of all Encumbrances (other than Permitted Encumbrances), (ii) establish and approve the amount of Cure Costs (if any) for each of the Assigned Contracts, (iii) authorize the assumption of the Assigned Contracts by the Sellers and the assignment of the Assigned Contracts to the Purchaser, and (iv) authorize the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements and all other transactions and agreements contemplated hereby or thereby.

(v) “Contract” means any written or oral contract, indenture, note, bond, lease, license, commitment or instrument or other agreement or arrangement.

(w) “Controlling Affiliates” means any Affiliate or Affiliates of the Purchaser who at the time of termination of this Agreement have committed equity financing in excess of 50% all committed equity financing to the Purchaser at such time, such Affiliate or Affiliates to be disclosed to the Sellers in writing by the Purchaser within ten (10) Business Days after such termination.

(x) “Cure Cost/Assignment Objection Deadline” has the meaning ascribed to such term in the Bid Procedures Order.

(y) “Cure Costs” means the amounts necessary to cure all defaults, if any, and that must be paid in connection with the assumption of each Assigned Contract pursuant to section 365(b)(1)(A) and section 365(b)(1)(B) of the Bankruptcy Code.

(z) “Designation Deadline” means the later of (a) ten (10) calendar days prior to the Confirmation Hearing and (b) one (1) Business Day after the date the Auction closes and the Sellers announce the identity of the Successful Bidder; provided, however, that (i) with respect to any Contract that has an Undetermined Cure Cost at such later date, the Designation Deadline for such Contract shall be the date that such Undetermined Cure Cost becomes a Determined Cure Cost and (ii) with respect to any Contract that is first disclosed to the Purchaser after such later date, the Designation Deadline for such Contract shall be two (2) Business Days after the date a copy of such Contract is first provided to the Purchaser.

(aa) “Determined Cure Cost” means, with respect to the Cure Cost of any particular Contract, that such Cure Cost is finally established in accordance with the Plan, by court order or by agreement by the parties to such Contract at the date or time in question.

(bb) “DIP Credit Agreement” means that certain Secured Super-Priority Debtor in Possession Multiple Draw Term Loan Agreement, dated as of July 17, 2009, among RathGibson, as borrower, Greenville and RGCH, as guarantors, the financial institutions parties thereto as lenders thereunder, and Wilmington Trust FSB in its capacity as administrative agent thereunder, as amended, supplemented or otherwise modified from time to time.

(cc) “Disclosure Statement” means the disclosure statement that relates to the Plan, as such disclosure statement may be amended, modified or supplemented from time to time (including all exhibits and schedules annexed thereto or referred to therein).

(dd) “Disclosure Statement Motion” means the motion to be filed by the Sellers in the Chapter 11 Cases seeking entry of the Disclosure Statement Order.

(ee) “Disclosure Statement Order” means the order of the Bankruptcy Court that, among other things, approves the Disclosure Statement as containing adequate information as required by section 1125 of the Bankruptcy Code, in the form of Exhibit D attached hereto or such other form as the Purchaser may approve in its discretion as it relates to any of the Specified Matters.

(ff) “Documents” means all of the Sellers’ written files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, correspondence, budgets, forecasts, plans, operating records, safety and environmental reports, data, studies and documents, Tax Returns, ledgers, journals, title policies, customer lists, supplier lists, vendor lists, regulatory filings, operating data and plans, research material, technical documentation (design specifications, engineering information, test results, maintenance schedules, functional requirements, operating instructions, logic manuals, processes, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.) and other similar materials, in each case whether or not in electronic form.

(gg) “Effective Date” means the first Business Day on which all conditions to the “Effective Date” set forth in Section 11.2 of the Plan have been satisfied or waived, and no stay of the Confirmation Order is in effect.

(hh) “Employment Loss” means (i) an employment termination, other than a discharge for cause, voluntary departure or retirement, (ii) a layoff exceeding six (6) months, (iii) a reduction in hours of work of more than fifty percent (50%) in each month of any six (6) month period or (iv) or any similar employment action that (when aggregated with any other employment action) could trigger the notice requirements of the WARN Act, or under any similar provision of any federal, state, provincial, regional, foreign or local Law, rule or regulation.

(ii) “Encumbrance” means any lien, encumbrance, claim (as defined in section 101(5) of the Bankruptcy Code), right, demand, charge, mortgage, deed of trust, option, pledge, security interest or similar interest, title defect, hypothecation, easement, right of way, restrictive covenant, encroachment, right of first refusal, preemptive right, judgment, conditional sale or other title retention agreement and all other impositions, imperfections, defects, limitations or restrictions of any nature or kind whatsoever.

(jj) “Environmental Laws” means all applicable Laws relating to pollution or protection of health, safety, natural resources or the environment, or the generation, use, treatment, storage, handling, transportation or Release of, or exposure to, Hazardous Materials, including, without limitation, the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), Safe Drinking Water Act (42 U.S.C. §3000(f) et seq.), Toxic Substances Control Act (15 U.S.C. §2601 et seq.), Clean Air Act (42 U.S.C. §7401 et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.) and other similar federal, state, provincial and local statutes.

(kk) “Equipment” means all equipment, machinery, vehicles, storage tanks, furniture, fixtures and other tangible personal property of every kind and description and improvements and tooling owned or used, or held for use, in connection with the operation of the Business by the Sellers, wherever located, including, without limitation, communications equipment, the IT Assets, and any attached and associated hardware, routers, devices, panels, cables, manuals, cords, connectors, cards, and vendor documents, and including all warranties of the vendor applicable thereto, to the extent such warranties are transferable.

(ll) “ERISA Affiliate” means any entity which is, or at any relevant time was, a member of (i) a controlled group of corporations (as defined in Section 414(b) of the Code), (ii) a group of trades or businesses under common control (as defined in Section 414(c) of the Code), (iii) an affiliated service group (as defined under Section 414(m) of the Code) or (iv) any group specified in regulations under Section 414(o) of the Code, any of which includes or included a Seller.

(mm) “Final Order” means an order, ruling or judgment of the Bankruptcy Court (or other court of competent jurisdiction) entered by the Clerk of the Bankruptcy Court on the docket in any of the Chapter 11 Cases (or by the clerk of such other court of competent

jurisdiction on the docket of such court) that: (i) is in full force and effect; (ii) is not stayed; and (iii) is no longer subject to review, reversal, modification or amendment, by appeal or writ of certiorari; provided, however, that the possibility that a motion under Rule 50 or 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Civil Procedure or Bankruptcy Rules, may be filed relating to such order, ruling or judgment shall not cause such order, ruling or judgment not to be a Final Order.

(nn) “Foreign Subsidiaries” means, collectively, RathGibson Pte. Ltd., a Singapore limited company, and RathGibson Tubes Private Limited, an Indian limited company.

(oo) “GAAP” means United States generally accepted accounting principles as in effect from time to time.

(pp) “Good Faith Deposit” has the meaning ascribed to such term in the Bid Procedures.

(qq) “Governmental Body” means any government, quasi-governmental entity, or other governmental or regulatory body, agency or political subdivision thereof of any nature, whether foreign, federal, state or local, or any agency, branch, department, official, entity, instrumentality or authority thereof, or any court or arbitrator (public or private).

(rr) “Hazardous Materials” means petroleum and all derivatives thereof or synthetic substitutes therefor, asbestos and asbestos containing materials, and any and all materials now or hereafter defined, listed, designated or classified as, or otherwise determined to be, “hazardous wastes,” “hazardous substances,” “radioactive,” “solid wastes,” or “toxic” (or words of similar meaning) under or pursuant to or otherwise listed or regulated pursuant to any Environmental Law.

(ss) “HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, together with the rules and regulations promulgated thereunder.

(tt) “Indebtedness” of any Person means, without duplication, (i) the interest in respect of, principal of and premium (if any) in respect of (x) indebtedness of such Person for money borrowed and (y) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (ii) all obligations of such Person issued or assumed as the deferred purchase price of property (other than for services and goods acquired in the Ordinary Course of Business); (iii) all obligations of such Person under leases required to be capitalized in accordance with GAAP; (iv) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction; (v) all obligations of the type referred to in clauses (i) through (iv) of any other Person for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations; and (vi) all obligations of the type referred to in clauses (i) through (v) of other Persons secured by any Encumbrance (other than Permitted Encumbrances), on any property or asset of such Person (whether or not such obligation is assumed by such Person).

(uu) “Intellectual Property” means all intellectual property and proprietary rights of any kind, including the following: (i) trademarks, service marks, trade names, slogans,

logos, trade dress, internet domain names, uniform resource identifiers, rights in design, brand names, and other similar designations of source or origin, together with all goodwill, registrations and applications related to the foregoing; (ii) patents, utility models and industrial design registrations (and all continuations, divisionals, continuations in part, provisionals, renewals, reissues, re-examinations and applications for any of the foregoing); (iii) copyrights and copyrightable subject matter (including, without limitation, any registrations and applications for any of the foregoing); (iv) trade secrets and other confidential or proprietary business information (including manufacturing and production processes and techniques, research and development information, technology, drawings, specifications, designs, plans, proposals, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans, customer and supplier lists and information), know how, proprietary processes, formulae, algorithms, models, and methodologies (the “Trade Secrets”); (v) computer software, computer programs, and databases (whether in source code, object code or other form); and (vi) all rights to sue for past, present and future infringement, misappropriation, dilution or other violation of any of the foregoing and all remedies at law or equity associated therewith.

(vv) “Inter-Company Payable” means any accounts payable, trade accounts payable and other amounts payable owed to a Seller by or from a Seller.

(ww) “Inter-Company Receivables” means any accounts receivable, trade accounts and other amounts receivable owed to a Seller by or from a Seller.

(xx) “Inventory” means all of the Sellers’ inventories (including, without limitation, raw materials, packaging materials, supplies, work in process, finished goods, spare parts and replacement and component parts and fuel) that are used, or held for use, in connection with the operation of the Business.

(yy) “IRB Loan Agreement” means the Loan Agreement, dated as of December 1, 2007, by and among GE Capital Franchise Finance Corporation (as assignee of GE Government Finance, Inc.), as lender, City of Clarksville, Arkansas, as issuer, and Greenville, as borrower, as amended, supplemented or otherwise modified from time to time.

(zz) “IT Assets” means all of the Sellers’ computers, computer software and databases (including source code, object code and all related documentation), firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, and all other information technology equipment and elements, and all associated documentation that are used, or held for use, in connection with the operation of the Business.

(aaa) “Kaplan Release Agreement” means the Release Agreement, dated as of March 8, 2010, among the Purchaser, the Sellers and Harley B. Kaplan, as amended, supplemented or otherwise modified from time to time.

(bbb) “Kaplan Separation Agreement” means the Separation Agreement and General Release between the Sellers (other than Greenville) and Harley B. Kaplan, as in effect on the Execution Date.

(ccc) “Knowledge of the Sellers” or “Sellers’ Knowledge” means the actual knowledge, after reasonable investigation and inquiry, of Michael Schwartz, Jon M. Smith, Kirk Thorne, Richard Lore, Sr. and Andrew Yeghnazar.

(ddd) “Laws” means all federal, state, local or foreign laws, statutes, common law, rules, codes, regulations, restrictions, ordinances, orders, decrees, approvals, directives, judgments, rulings, injunctions, writs and awards of, or issued, promulgated, enforced or entered by, any and all Governmental Bodies (including any court of competent jurisdiction), or other requirement or rule of law.

(eee) “Leased Real Property” means all of the real property leased, subleased, licensed, used or occupied by any of the Sellers, together with all buildings, structures, fixtures and improvements erected thereon, and any and all rights privileges, easements, licenses, hereditaments and other appurtenances relating thereto, and used, or held for use, in connection with the operation of the Business.

(fff) “Liability” means, as to any Person, any debt, adverse claim, liability, duty, responsibility, obligation, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed, including all costs and expenses relating thereto.

(ggg) “Licensed Intellectual Property” means any Intellectual Property that is licensed to any Seller, and used, or held for use, in connection with the operation of the Business.

(hhh) “Material Adverse Effect” means any event, circumstance, change, development, occurrence or state of facts that has had, or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on the (i) assets, Liabilities, business, operations, properties, condition (financial or otherwise) or results of operations of the Purchased Assets or the Business, taken as a whole, or (ii) the ability of any Seller to consummate the transactions contemplated by this Agreement or perform its obligations under this Agreement except, in each case, for any such effect resulting from any of the following: (A) changes in conditions in the U.S. or global economy or capital or financial markets generally, including changes in interest or exchange rates, except to the extent such changes disproportionately affect the Sellers relative to other Persons engaged in the industry in which the Sellers operate, (B) changes after the Execution Date in any applicable Law or in GAAP, except to the extent such changes disproportionately affect the Sellers relative to other Persons engaged in the industry in which the Sellers operate, (C) the announcement or pendency of this Agreement or the transactions contemplated hereby on relationships, contractual or otherwise, with customers, suppliers, vendors or employees, (D) changes caused by political conditions, such as acts of war, armed hostilities, sabotage or terrorism, or any escalation or worsening of any such acts of war, armed hostilities, sabotage or terrorism threatened or underway as of the date of this Agreement, except to the extent such changes disproportionately affect the Sellers relative to other Persons engaged in the industry in which the Sellers operate, (E) earthquakes, hurricanes, floods, or other natural disasters, except to the extent such events disproportionately affect the Sellers relative to

other Persons engaged in the industry in which the Sellers operate, (F) any action by the Purchaser or any of its Affiliates or the omission of an action that was required to be taken by the Purchaser or any of its Affiliates; provided, however, that the exception in this clause (F) shall not apply to an action or an omission to act at the request or instruction of any Seller, (G) any action taken by the Sellers which is required by this Agreement or is taken at the request of the Purchaser, (H) changes, events or effects that are generally applicable to Persons engaged in the industry in which the Sellers operate, except to the extent such changes, events or effects disproportionately affect the Sellers relative to other Persons engaged in the industry in which the Sellers operate or (I) the commencement of the Chapter 11 Cases.

(iii) “Non-Assumed Contracts” means, collectively, (a) any Contracts to which any Seller is a party and are set forth on Schedule 10.1(iii), (b) any pre-petition Contracts excluded from the definition of Purchased Assets by the Purchaser pursuant to Section 1.5(a), (c) the Excluded Plans, and (d) any Contracts the execution of which required the prior written consent of the Purchaser pursuant to Section 8.1(a) or Section 8.1(b), but for which such prior written consent was not given by the Purchaser, unless any such Contract is specifically designated as a Purchased Asset by the Purchaser pursuant to Section 1.5(a).

(jjj) “Ordinary Course of Business” means the ordinary and usual course of normal day to day operations of the Business consistent with past practice.

(kkk) “Owned Intellectual Property” means all Intellectual Property owned by any Seller, and used, or held for use, in connection with the operation of the Business.

(lll) “Permits” means all notifications, licenses, permits (including environmental, construction and operation permits), franchises, certificates, approvals, consents, waivers, clearances, exemptions, classifications, registrations, variances, orders, tariffs, rate schedules and other similar documents and authorizations issued by any Governmental Body to any Seller and used, or held for use, in connection with the operation of the Business or applicable to ownership of the Purchased Assets or assumption of the Assumed Liabilities.

(mmm) “Permitted Encumbrances” means (i) Encumbrances for utilities and current Taxes not yet due and payable or that are due but may not be paid as a result of the commencement of the Chapter 11 Cases; (ii) easements, rights of way, restrictive covenants, encroachments and similar non-monetary encumbrances or non-monetary impediments against any of the Purchased Assets which do not, individually or in the aggregate, adversely affect the operation of the Business and, in the case of the Assumed Leased Real Property, which do not, individually or in the aggregate, adversely affect the use or occupancy of such Assumed Leased Real Property as it relates to the operation of the Business or materially detract from the value of the Assumed Leased Real Property, (iii) applicable zoning Laws, building codes, land use restrictions and other similar restrictions imposed by Law (but not restrictions arising from a violation of any such Law), (iv) materialman’s, mechanics’, artisans’, shippers’, warehouseman’s or other similar common law or statutory liens incurred in the Ordinary Course of Business for sums not yet due and payable or that are due but may not be paid as a result of the commencement of the Chapter 11 Cases and that do not result from a breach, default or violation by a Seller of any Contract or Law, (v) such other Encumbrance, title exceptions or imperfections of title as the Purchaser may approve in writing in its sole discretion or which do



not, individually or in the aggregate, adversely affect the operation of the Business or the value of the Purchased Assets and (vi) any Liabilities created by this Agreement or any of the Ancillary Agreements.

(nnn) “Person” means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization, labor union, estate, Governmental Body or other entity or group.

(ooo) “Plan” means the Second Amended Joint Chapter 11 Plan For RathGibson, Inc., et al. filed with the Bankruptcy Court on March 8, 2010, as it may be amended, supplemented or otherwise modified from time to time.

(ppp) “Potential Bidder” has the meaning ascribed to such term in the Bid Procedures Order.

(qqq) “Pudelsky Release Agreement” means the Release Agreement, dated as of March 8, 2010, among the Purchaser, the Sellers and David Pudelsky, as amended, supplemented or otherwise modified from time to time.

(rrr) “Pudelsky Separation Agreement” means the Separation Agreement and General Release, dated as of February 6, 2009, between the Sellers (other than Greenville) and David Pudelsky, as in effect on the Execution Date.

(sss) “Purchase Price Adjustment Escrow Amount” means (i) as of the Closing, the Deposit and (ii) at all times after the Closing, the funds held and maintained in the Escrow Account from time to time, including any interest or other earnings on such funds. For the avoidance of doubt, the Deposit shall not be released to the Sellers at the Closing, but rather automatically converted into the Purchase Price Adjustment Escrow Amount at the Closing and held by the Escrow Agent pursuant to the terms of the Escrow Agreement.

(ttt) “Purchaser Ancillary Agreements” means, collectively, each certificate, agreement or document (other than this Agreement) that the Purchaser is required to execute and/or deliver in connection with this Agreement.

(uuu) “Purchaser Disclosure Schedule” means the disclosure schedules which are attached hereto and delivered by the Purchaser.

(vvv) “Purchaser 401(k) Plan” means a defined contribution plan of the Purchaser or an Affiliate of the Purchaser intended to qualify under Sections 401(a) and 401(k) of the Code.

(www) “Purchaser Parties” means, collectively, the Purchaser and its Subsidiaries, and any of their respective former, current or future directors, officers, employees, agents, general or limited partners, managers, members, stockholders, investors, lenders, creditors, representatives, Affiliates or assignees or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder, investor, lender, creditor, representative, Affiliate or assignee of any of the foregoing.

(xxx) "Purchaser's Counsel" means Stroock & Stroock & Lavan LLP.

(yyy) "Qualified Bids" has the meaning ascribed to such term in the Bid Procedures Order.

(zzz) "Release" means, with respect to any Hazardous Material, any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migrating into or through any surface or ground water, drinking water supply, soil, surface or subsurface strata or medium, or the ambient air.

(aaaa) "Release Agreement" or "Release Agreements" means, individually or collectively, as applicable, the Kaplan Release Agreement and/or the Pudelsky Release Agreement.

(bbbb) "Second-Highest Bidder" has the meaning ascribed to such term in the Bid Procedures.

(cccc) "Seller Ancillary Agreements" means, collectively, each certificate, agreement or document (other than this Agreement) that any Seller is required to execute and/or deliver in connection with this Agreement.

(dddd) "Seller Disclosure Schedule" means the disclosure schedules which are attached hereto and delivered by the Sellers.

(eeee) "Seller 401(k) Plans" means, collectively, (i) the RathGibson, Inc. (Wisconsin) 401(k) Retirement Plan, (ii) the RathGibson Employees' Profit Sharing Plan and Trust, (iii) the Mid-South Control Lines Inc. 401(k) Plan and (iv) the Greenville Tube Company 401(k) Plan.

(ffff) "Seller Intellectual Property" means any Intellectual Property that is owned by, licensed to, or used or held for use by, any Seller in connection with the operation of the Business.

(gggg) "Seller Parties" means, collectively, the Sellers and their respective Subsidiaries, and any of their respective former, current or future directors, officers, employees, agents, general or limited partners, managers, members, stockholders, investors, lenders, creditors, representatives, Affiliates or assignees or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder, investor, lender, creditor, representative, Affiliate or assignee of any of the foregoing.

(hhhh) "Seller Plans" means (i) all "employee benefit plans" (as defined in Section 3(3) of ERISA), including all employee benefit plans which are "pension plans" (as defined in Section 3(2) of ERISA) and any other written employee benefit arrangements or payroll practices (including, without limitation, severance pay, vacation pay, company awards, salary continuation for disability, sick leave, death benefit, hospitalization, welfare benefit, group or individual health, dental, medical, life, insurance, survivor benefit, deferred compensation, profit sharing, retirement, retiree medical, supplemental retirement, bonus or other incentive compensation, stock purchase, stock option, stock appreciation rights, restricted stock and

phantom stock arrangements or policies) and (ii) all written employment, termination, bonus, severance, change in control or other similar contracts or agreements, in each case to which any Seller is a party, with respect to which any Seller has any Liability or obligation or which are maintained by any Seller and to which any Seller contributes or is obligated to contribute with respect to current or former directors, officers, consultants and employees of any Seller.

(jjjj) “Significant Employee” means any employee of any Seller that (i) is involved in the management of the Business of such Seller, (ii) has supervisory authority over the Business (or any material aspect thereof) or a significant number of employees of such Seller or (iii) earns aggregate annual compensation (including salary, bonus or other direct or indirect remuneration) in excess of \$80,000.

(jjjj) “Specified Matters” means, collectively, this Agreement and all the transactions contemplated herein, the Ancillary Agreements and all the transactions contemplated therein, the Auction, the Bid Procedures, the Assumption and Assignment Procedures, the Break-Up Fee, the Reimbursement Amount, the Collection Costs and the Expense Amount; provided, however, for the avoidance of doubt, the foregoing shall not include any matters relating to (i) the solicitation of votes or the voting on the Plan, (ii) the wind down of the Sellers’ bankruptcy estates, or (iii) the Plan, in each case to the extent not related to this Agreement or the transactions contemplated herein, the Ancillary Agreements or the transactions contemplated therein, the Auction, the Bid Procedures, the Assumption and Assignment Procedures, the Break-Up Fee, the Reimbursement Amount, the Collection Costs or the Expense Amount.

(kkkk) “Stalking Horse Bid” has the meaning ascribed to such term in the Bid Procedures Order.

(llll) “Subsidiary” means, with respect to any Person (the “Owner”), any corporation or other Person of which securities or other interests having the power to elect a majority of that corporation’s or other Person’s board of directors or similar governing body, or otherwise having the power to direct the business and policies of that corporation or other Person, are held by the Owner or one or more of its Subsidiaries.

(mmmm) “Successful Bidder” has the meaning ascribed to such term in the Bid Procedures.

(nnnn) “Tax” and “Taxes” means (i) any and all federal, state, local or foreign taxes, charges, fees, imposts, levies or other assessments, including all net income, gross receipts, capital, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation, property and estimated taxes, customs duties, fees, assessments and charges of any kind whatsoever; (ii) all interest, penalties, fines, additions to tax or additional amounts imposed by any Governmental Body in connection with any item described in clause (i); and (iii) any Liability in respect of any items described in clauses (i) and/or (ii) payable by reason of Contract, assumption, transferee liability, operation of Law, Treasury Regulation Section 1.1502-6(a) (or any predecessor or successor thereof or any analogous or similar provision under Law) or otherwise.

(oooo) “Tax Return” means any return, report, information return, declaration, claim for refund or other document (including any schedule or related or supporting information) supplied or required to be supplied to any Governmental Body with respect to Taxes, including amendments thereto.

(pppp) “2011 Capital Budget” means the capital budget of the Sellers for the 2011 fiscal year as set forth on Schedule 10.1(pppp).

(qqqq) “Undetermined Cure Cost” means, with respect to the Cure Cost of any particular Contract, that such Cure Cost is not finally determined in accordance with the Plan, by court order or by agreement by the parties to such Contract as of the time or date in question.

(rrrr) “WARN Act” means the United States Worker Adjustment and Retraining Notification Act, and the rules and regulations promulgated thereunder.

10.2 Additional Defined Terms. The following terms have the meanings set forth in the Sections set forth below:

| <u>Defined Term</u>                      | <u>Location</u> |
|--|-----------------|
| Acquired Customers                       | 1.1(a)          |
| Actions                                  | 4.6             |
| Additional Closing Date Cure Amount      | 2.3(b)(ii)      |
| Additional Deposit                       | 2.2(a)          |
| Additional Excess Cure Amount            | 2.4(f)(ii)      |
| Adjustment Certificate                   | 2.4(a)          |
| Aggregate Reserve Amount                 | 1.5(d)          |
| Aggregate Alleged Tax Liability Amount   | 8.15            |
| Agreement                                | Preamble        |
| Alleged Tax Liability                    | 8.15            |
| Allocation                               | 11.1(b)         |
| Applications                             | 8.14            |
| Assigned Contracts                       | 1.1(t)          |
| Assumed Customer Contracts               | 1.1(a)          |
| Assumed Employment Contracts             | 6.1             |
| Assumed Independent Contractor Contracts | 1.1(k)          |
| Assumed Intellectual Property            | 1.1(s)          |
| Assumed Intellectual Property Contracts  | 1.1(s)          |
| Assumed Leased Real Property             | 1.1(j)          |
| Assumed Liabilities                      | 1.3             |
| Assumed Permits                          | 1.1(l)          |
| Assumed Personal Property Leases         | 1.1(h)          |
| Assumed Plans                            | 1.1(r)          |
| Assumed Real Property Leases             | 1.1(j)          |
| Assumed Vendor Contracts                 | 1.1(e)          |
| Audited Balance Sheet                    | 4.25            |
| Audited Financial Statements             | 4.25            |
| Bankruptcy Code                          | Recitals        |

| <b><u>Defined Term</u></b>                 | <b><u>Location</u></b> |
|--|------------------------|
| Bankruptcy Court                           | Recitals               |
| Bankruptcy Court Orders                    | 7.1(d)                 |
| Bankruptcy Exceptions                      | 4.3                    |
| Break-Up Fee                               | 3.6(b)                 |
| Chapter 11 Cases                           | Recitals               |
| Closing                                    | 3.1                    |
| Closing Certificate                        | 2.3(a)                 |
| Closing Date                               | 3.1                    |
| Closing Date Purchase Price                | 2.1                    |
| COBRA Continuation Coverage                | 6.3                    |
| Collateral                                 | 3.6(e)                 |
| Collection Costs                           | 3.6(d)                 |
| Confirmation Certificate                   | 2.4(b)                 |
| Contract & Cure Update Schedule            | 1.5(a)                 |
| Deposit                                    | 2.2(a)                 |
| Dispute Notice                             | 2.4(b)                 |
| Disputed Amount Contract                   | 1.5(d)                 |
| Employee Plans                             | 4.17(b)                |
| Employment Contracts                       | 6.1                    |
| Equity Financing Letters                   | 5.5                    |
| Escrow Account                             | 2.2(a)                 |
| Escrow Agent                               | 2.2(a)                 |
| Escrow Agreement                           | 2.2(a)                 |
| Estimated Closing Date Net Working Capital | 2.3(a)                 |
| Excluded Assets                            | 1.2                    |
| Excluded Liabilities                       | 1.4                    |
| Excluded Plans                             | 1.2(h)                 |
| Execution Date                             | Preamble               |
| Exempt Trust                               | 4.17(d)                |
| Expense Amount                             | 8.12                   |
| Filing Date                                | Recitals               |
| Final Certificate                          | 2.4(e)                 |
| Final Determination Date                   | 2.4(f)                 |
| Financial Statements                       | 4.25                   |
| Foreign Subsidiary Stock                   | 1.1(v)                 |
| Greenville                                 | Preamble               |
| Independent Accountant                     | 2.4(d)                 |
| Initial Deposit                            | 2.2(a)                 |
| Insurance Policies                         | 4.20                   |
| Interim Arrangement                        | 8.3(b)                 |
| IRB Payoff Cash Amount                     | 1.2(l)                 |
| Material Contracts                         | 4.8(a)                 |
| Material Permits                           | 4.9(a)                 |
| Modified Closing Date Net Working Capital  | 2.4(a)                 |
| Most Recent Balance Sheet                  | 4.25                   |

| <b><u>Defined Term</u></b>        | <b><u>Location</u></b> |
|-----------------------------------|------------------------|
| New Employment Contracts          | 6.1                    |
| Nonassignable Assets              | 8.3                    |
| Original Contract & Cure Schedule | 1.5(a)                 |
| Outside Date                      | 3.4(b)                 |
| Pre-Adjusted Purchase Price       | 2.1                    |
| Purchase Price                    | 2.1                    |
| Purchased Assets                  | 1.1                    |
| Purchased Names                   | 1.1(i)                 |
| Purchaser                         | Preamble               |
| Qualified Plan                    | 4.17(d)                |
| RathGibson                        | Preamble               |
| Registered IP                     | 4.7(a)                 |
| Reimbursement Amount              | 3.6(b)                 |
| Representatives                   | 8.2                    |
| Reserve Amount                    | 1.5(d)                 |
| RG Tube                           | Preamble               |
| RG Tube/RGCH Cash Amount          | 1.2(l)                 |
| RGCH                              | Preamble               |
| Seller                            | Preamble               |
| Seller Organizational Documents   | 4.1                    |
| Seller Reserves                   | 4.23                   |
| Significant Customers             | 4.22                   |
| Significant Vendors/Suppliers     | 4.22                   |
| Specified Subsidiaries            | 4.2(a)                 |
| Tax Clearance Certificate         | 8.15                   |
| Trade Secrets                     | 10.1(ss)               |
| Trademark Registrations           | 8.14                   |
| Transfer Taxes                    | 11.1(a)                |
| Transferred Employee              | 6.1                    |
| Unaudited Financial Statements    | 4.25                   |
| UPE                               | 8.6(b)                 |

## ARTICLE 11.

### TAXES

#### 11.1 Additional Tax Matters.

(a) Any sales, use, purchase, transfer, franchise, deed, fixed asset, stamp, documentary stamp, use or other Taxes and recording charges which may be payable by reason of the sale of the Purchased Assets or the assumption of the Assumed Liabilities under this Agreement or the transactions contemplated herein (all of the foregoing, "Transfer Taxes") shall be borne and timely paid by the Sellers, and the Sellers shall indemnify, defend (with counsel reasonably satisfactory to the Purchaser), protect, and save and hold the Purchaser harmless from and against any and all claims, charges, interest or penalties assessed, imposed or asserted in relation to any such Transfer Taxes. If the Sellers shall fail to indemnify or otherwise satisfy

their obligations described in the immediately preceding sentence within two (2) Business Days after receiving notice from the Purchaser, the Purchaser shall be entitled to deliver to the Escrow Agent a letter instructing the Escrow Agent to pay to the Purchaser from the Purchase Price Adjustment Escrow Amount the amount necessary to satisfy such indemnification or other obligation and the distribution of such amount by the Escrow Agent shall be subject to the terms of the Escrow Agreement.

(b) The Purchaser shall, not later than one hundred twenty (120) days after the Closing Date, prepare and deliver to the Sellers for their consent (which consent shall not be unreasonably withheld, delayed or conditioned) a schedule allocating the Purchase Price (and any other items that are required for federal income tax to be treated as Purchase Price) among the Sellers and the Purchased Assets (such schedule, the “Allocation”). If the Sellers raise any objection to the Allocation within twenty (20) days of the receipt thereof, the Purchaser and the Sellers will negotiate in good faith to resolve such objection(s). If the Sellers do not raise any objection to the Allocation within twenty (20) days of the receipt thereof, the Sellers shall be deemed to have conclusively accepted the Allocation. The Purchaser and the Sellers shall report and file all Tax Returns (including amended Tax Returns and claims for refund) consistent with the Allocation as finally agreed upon, and shall take no position contrary thereto or inconsistent therewith (including, without limitation, in any audits or examinations by any Governmental Body or any other proceeding) without first giving the other party prior written notice; provided, however, that nothing contained herein shall prevent the Purchaser or the Sellers from settling any proposed deficiency or adjustment by any Governmental Body based upon or arising out of the Allocation, and neither the Purchaser or the Sellers shall be required to litigate before any court any proposed deficiency or adjustment by any Governmental Body challenging such Allocation. The Purchaser and the Sellers shall cooperate in the filing of any forms (including Form 8594 under Section 1060 of the Code) with respect to the Allocation, including any amendments to such forms required pursuant to this Agreement with respect to any adjustment to the Purchase Price. If and to the extent the parties are unable to agree on the Allocation, the parties shall retain a mutually agreed upon accounting firm of national repute to resolve such dispute. Notwithstanding any other provision of this Agreement, the terms and provisions of this Section 11.1(b) shall survive the Closing without limitation.

## ARTICLE 12.

### MISCELLANEOUS

12.1 Payment of Expenses. Except as otherwise provided in this Agreement and whether or not the transactions contemplated hereby are consummated, each party hereto will bear its own costs and expenses (including investment advisory and legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby; provided, however, that (a) all Transfer Taxes (as well as the costs and expenses incurred in connection with the preparation and filing of all Tax Returns with respect thereto) shall be borne solely by the Sellers, (b) the Break-Up Fee, the Reimbursement Amount, the Expense Amount and the Collection Costs payable to the Purchaser, if any of the foregoing are payable under this Agreement, shall be borne solely by the Sellers, and (c) all filing fees (but not the costs and expenses of preparing any applicable filings) in connection with any required filings or submissions under the HSR Act or any other competition Law shall be borne by the Purchaser.

12.2 Survival of Representations and Warranties; Survival of Post-Closing Covenants. The parties hereto agree that the representations and warranties contained in this Agreement shall expire automatically and immediately upon the Closing Date. The parties hereto agree that the covenants contained in this Agreement to be performed at or after the Closing shall survive in accordance with the terms of the particular covenant or until fully performed.

12.3 Entire Agreement; Amendments and Waivers. This Agreement (including the schedules and exhibits hereto) and the Ancillary Agreements represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by each party hereto, or in the case of a waiver, by the party against whom the waiver is to be effective. No action taken pursuant to this Agreement, including, without limitation, any investigation by or on behalf of any party shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

12.4 Counterparts. For the convenience of the parties hereto, this Agreement may be executed and delivered (by facsimile or PDF signature) in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

12.5 Governing Law. THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE, AND WHERE STATE LAW IS IMPLICATED, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF (EXCEPT SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.

12.6 Jurisdiction, Waiver of Jury Trial.

(a) THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF NEW YORK AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE SOUTHERN DISTRICT OF THE STATE OF NEW YORK WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES, WHETHER IN LAW OR EQUITY,



ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY.

(b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12.7 Notices. Unless otherwise set forth herein, any notice, request, instruction or other document to be given, provided or furnished hereunder by any party to the other parties shall be in writing and shall be deemed duly given, provided or furnished (i) upon delivery, when delivered personally, (ii) one (1) Business Day after being sent by overnight courier or when sent by facsimile transmission, and (iii) three (3) Business Days after being sent by registered or certified mail, postage prepaid, as follows:

If to the Sellers:

c/o RathGibson, Inc.  
475 Half Day Road, Suite 210  
Lincolnshire, IL 60069  
Attn: Michael G. Schwartz  
Facsimile No.: 847-276-2100

with a copy (which shall not constitute effective notice) to:

Willkie Farr & Gallagher LLP  
787 Seventh Avenue  
New York, New York 10019  
Attn: Paul V. Shalhoub, Esq.  
Attn: Robin Spigel, Esq.  
Attn: Matthew J. Rizzo, Esq.  
Facsimile No.: 212-728-8111

If to the Purchaser prior to the Closing:

c/o Wayzata Investment Partners LLC  
701 East Lake Street, Suite 300  
Wayzata, MN 55391  
Attn: Ray Wallander, Esq.  
Facsimile No.: 952-345-8901

with a copy (which shall not constitute effective notice) to:

Stroock & Stroock & Lavan LLP  
180 Maiden Lane  
New York, New York 10038  
Attn: Kristopher M. Hansen, Esq.

Attn: Matthew A. Schwartz, Esq.  
Attn: Jayme T. Goldstein, Esq.  
Facsimile No.: 212-806-6006

If to the Purchaser after the Closing:

RathGibson Acquisition Co., LLC  
475 Half Day Road, Suite 210  
Lincolnshire, IL 60069  
Attn: Michael G. Schwartz  
Facsimile No.: 847-276-2100

with copies (which shall not constitute effective notice) to:

c/o Wayzata Investment Partners LLC  
701 East Lake Street, Suite 300  
Wayzata, MN 55391  
Attn: Ray Wallander, Esq.  
Facsimile No.: 952-345-8901

and

Stroock & Stroock & Lavan LLP  
180 Maiden Lane  
New York, New York 10038  
Attn: Kristopher M. Hansen, Esq.  
Attn: Matthew A. Schwartz, Esq.  
Attn: Jayme T. Goldstein, Esq.  
Facsimile No.: 212-806-6006

or to such other Persons, addresses or facsimile numbers as may be designated in writing by the party to receive such notice.

12.8 Binding Effect; Assignment. This Agreement shall be binding upon the Purchaser and, subject to entry of the Approval Order (with respect to the matters covered thereby) and the Confirmation Order, the Sellers, and inure to the benefit of the parties and their respective successors and permitted assigns, including, without limitation, any trustee or estate representative appointed in the Chapter 11 Cases or any successor Chapter 7 case. No assignment of this Agreement or of any rights or obligations hereunder may be made by the Sellers or the Purchaser (by operation of Law or otherwise) without the prior written consent of the other parties hereto and any attempted assignment without the required consents shall be void; provided, however, that the Purchaser (and, in the case of clause (b), any of its Affiliates) may assign, delegate or transfer, in whole or in part, this Agreement and any of its rights, obligations and/or interests hereunder, without the consent of the Sellers, (a) to any Affiliate of the Purchaser and/or (b) to any Person as security for any obligations arising in connection with the Purchaser's or its Affiliate's financing in connection with the transactions contemplated by this Agreement. No assignment of any obligations hereunder shall relieve the parties hereto of

any such obligations. Upon any such permitted assignment, the references in this Agreement to the Purchaser shall also apply to any such assignee unless the context otherwise requires.

12.9 Severability. If any term, condition or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other terms, conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner adverse to any party. Upon such determination that any term, condition or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

#### 12.10 Injunctive Relief.

(a) The parties agree that damages at Law may be an inadequate remedy for the breach of any of the covenants, promises and agreements contained in this Agreement by the Sellers, and, accordingly, the Purchaser shall be entitled to injunctive relief with respect to any such breach, including, without limitation, specific performance of such covenants, promises or agreements or an order enjoining the Sellers from any threatened, or from the continuation of any actual, breach of the covenants, promises or agreements contained in this Agreement by the Sellers, all without the necessity of proving the inadequacy of money damages as a remedy and without the necessity of posting bond. The rights set forth in this Section 12.10 shall be in addition to any other rights which the Purchaser may have at Law or in equity pursuant to this Agreement.

(b) The Sellers acknowledge and agree that they shall not be entitled to an injunction or injunctions to prevent any breaches of this Agreement by the Purchaser or to enforce specifically the terms and provisions of this Agreement or otherwise to obtain any equitable relief or remedy against the Purchaser or the Purchaser Parties and that the Sellers' sole and exclusive remedy against the Purchaser and the other Purchaser Parties shall be the remedies explicitly set forth in Section 3.6(c). Without limiting the generality of the foregoing, and anything in this Agreement to the contrary notwithstanding, unless the Closing has occurred, the Sellers acknowledge that they may not seek specific performance for any reason to require the Purchaser or the Purchaser Parties to consummate the transactions (or any portion thereof) contemplated by this Agreement or any of the Ancillary Agreements under any circumstance whatsoever and the sole and exclusive remedy of the Sellers for the failure by the Purchaser to consummate such transactions or for any other reason whatsoever shall be as expressly set forth in Section 3.6(c).

12.11 Non-Recourse. Except as expressly contemplated by this Agreement, no Purchaser Party (other than the Purchaser) and no Seller Party (other than the Sellers) shall have any Liability under this Agreement or the Ancillary Agreements of or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby and thereby.

12.12 Time of the Essence. Time is of the essence in the performance of each of the obligations of the parties and with respect to all covenants and conditions to be satisfied by the

parties in this Agreement and all documents, acknowledgments and instruments delivered in connection herewith.

12.13 Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein express or implied shall give or be construed to give to any Person (including, without limitation, any of the Seller Parties (other than the Sellers) and any of the Purchaser Parties (other than the Purchaser)), other than the parties hereto and such permitted assigns (including, for the avoidance of doubt, any plan administrator administering the Chapter 11 Cases), any legal or equitable rights hereunder.

12.14 Certain Interpretations. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(i) All references in this Agreement to Articles, Sections, clauses, parts, Schedules and Exhibits shall be deemed to refer to Articles, Sections, clauses, parts, Schedules and Exhibits to this Agreement unless otherwise specified.

(ii) All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Schedule or Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement.

(iii) The Article, Section and paragraph captions herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

(iv) The words “include,” “includes” and “including,” when used herein shall be deemed in each case to be followed by the words “without limitation” (regardless or whether such words or similar words actually appear).

(v) When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day.

(vi) Any reference in this Agreement to “\$” or “dollars” shall mean U.S. dollars.

(vii) Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

(viii) The words such as “herein,” “hereinafter,” “hereof” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

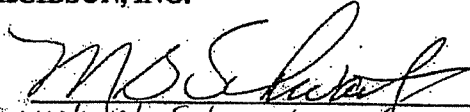
(b) The parties hereto agree that they have been represented by legal counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document shall be construed against the party drafting such agreement or document.

*[Remainder of Page Intentionally Left Blank]*

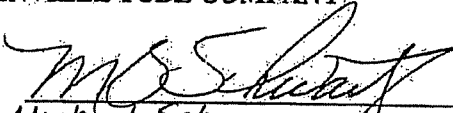
**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

**SELLERS:**

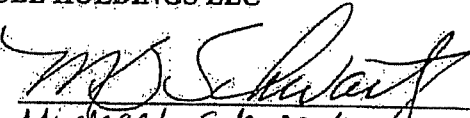
**RATHGIBSON, INC.**

By:   
Name: Michael Schwartz  
Title: President, CEO and COO

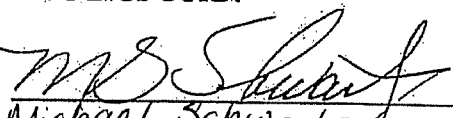
**GREENVILLE TUBE COMPANY**

By:   
Name: Michael Schwartz  
Title: President

**RG-TUBE HOLDINGS LLC**

By:   
Name: Michael Schwartz  
Title: President and CEO

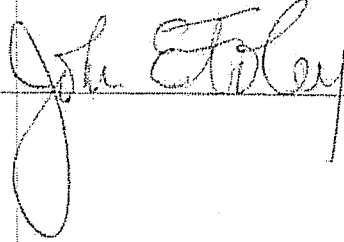
**RGCH HOLDINGS CORP.**

By:   
Name: Michael Schwartz  
Title: President and CEO

**PURCHASER:**

**RATHGIBSON ACQUISITION CO., LLC**

By:  
Name:  
Title:

  
\_\_\_\_\_

**Exhibit 5**

**Bid Procedures Order (without exhibits)**



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

-----X  
**In re** : **Chapter 11**  
: :  
**RathGibson, Inc., et al.,<sup>1</sup>** : **Case No. 09-12452 (CSS)**  
: **Jointly Administered**  
**Debtors.** : :  
: **Re: Docket No. \_\_\_\_**  
: :  
-----X

**ORDER (I) (A) APPROVING BID PROCEDURES  
WITH RESPECT TO SALE; (B) APPROVING BID  
PROTECTIONS WITH RESPECT TO STALKING HORSE  
BIDDER; (C) APPROVING ASSUMPTION, ASSIGNMENT  
AND/OR TRANSFER PROCEDURES; AND (D) SCHEDULING  
AN AUCTION AND APPROVING THE FORM AND MANNER  
OF NOTICE THEREOF; AND (II) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (the “Debtors”), for the entry of an order, pursuant to sections 105, 363, 365, 503 and 507 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 6004-1(c) of the Local Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”): (i) scheduling the hearing on the approval of the Sale of the Purchased Assets, free and clear of all liens, claims, interests, charges or other encumbrances (other than permitted encumbrances); (ii) approving the Bid Procedures with respect to the Sale, (iii) approving the Bid Protections with respect to the Stalking Horse Bidder, (iv) approving assumption, assignment and/or transfer procedures,

<sup>1</sup> The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Greenville Tube Company (2689); (ii) RathGibson, Inc. (3283); (iii) RG Tube Holdings LLC (4080); and (iv) RGCH Holdings Corp. (9683). The Debtors’ executive headquarters’ address is 475 Half Day Road, Suite 210, Lincolnshire, Illinois 60069.

<sup>2</sup> Unless otherwise defined herein, all capitalized terms shall have the respective meanings ascribed to them in the Motion.

- (v) scheduling the Auction and approving the form and manner of notice thereof; and
- (vi) granting related relief;

**IT IS HEREBY FOUND AND DETERMINED THAT:**

A. Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when applicable. See Bankruptcy Rule 7052.

B. The Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334. The relief requested in the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Due and proper notice of the Motion and the relief sought therein has been given under the circumstances, such notice complied with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and no other or further notice is required except as set forth herein with respect to the Auction and Confirmation Hearing. A reasonable opportunity to object or be heard regarding the relief provided herein has been afforded to parties-in-interest.

D. The Debtors' proposed notice of the Auction and the Bid Procedures, in the form of the Notice of Bid Deadline and Auction For Sale of Substantially All of Debtors' Assets (the "Notice of Auction and Sale"), substantially in the form attached hereto as Exhibit B, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction and the Bid Procedures to be employed in connection therewith.

E. The Debtors' proposed notice of the Assignment and Assumption Procedures, in the form of the Notice of Assumption and Assignment annexed hereto as Exhibit

C, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the proposed assumption and assignment of the Executory Contracts and Unexpired Leases.

F. The Stalking Horse Agreement was entered into in good faith by the Debtors and the Stalking Horse Bidder, and is the result of an arms-length negotiation between the parties that are each represented by sophisticated legal counsel.

G. The Debtors have articulated good and sufficient business reasons for this Court to approve the Bid Procedures, including: (i) the payment of the Bid Protections, if necessary, to the Stalking Horse Bidder in accordance with the Stalking Horse Agreement; (ii) the scheduling of the Bid Deadline, Auction and Confirmation Hearing in connection with the Sale of the Purchased Assets and confirmation of the Plan; and (iii) the establishment of procedures to fix the Cure Costs to be paid under section 365 of the Bankruptcy Code in connection with the assumption, assignment and/or transfer of the Executory Contracts and Unexpired Leases.

H. The Bid Procedures, in substantially the form attached hereto as Exhibit A, are fair, reasonable and appropriate and are designed to maximize the value of the Debtors' estates.

I. The Bid Procedures and all such steps and expenses incurred in connection with the implementation of the Bid Procedures and this Order shall be deemed reasonable and appropriate and within the sound business judgment of the Debtors pursuant to section 363(b) of the Bankruptcy Code.

J. The Debtors have demonstrated that the Bid Protections are actual and necessary costs and expenses of preserving the Debtors' estates, within the meaning of section 503(b) of the Bankruptcy Code, and commensurate to the real and substantial benefit conferred upon Debtors' estates by the establishment of the Stalking Horse Bidder's bid, which has established a bid standard or minimum for other bidders for the Purchased Assets, thereby ensuring that during the Auction, if any, the Debtors receive the highest or best bid possible for the Purchased Assets.

K. The entry of this Order is in the best interests of the Debtors and their estates, creditors and interest holders and all other parties in interest herein.

**NOW THEREFORE, IT IS HEREBY ORDERED:**

1. The Motion is GRANTED as set forth herein.
2. The Notice of Auction and Sale annexed hereto as Exhibit B is reasonable and appropriate and is hereby approved.
3. [All objections to the Motion or the relief requested therein with respect to the Bid Procedures (including, without limitation, the Bid Protections), the Assignment and Assumption Procedures and the Notice of Auction and Sale that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled and denied on the merits.]
4. The Bid Procedures (including, without limitation, the Bid Protections) are approved and shall apply with respect to the Auction, if any, and the proposed Sale of the Purchased Assets. The Debtors are authorized to take all actions necessary or appropriate to implement the Bid Procedures.

5. As further described in the Bid Procedures, the deadline for submitting bids for the Purchased Assets (the "Bid Deadline") is [May 12, 2010, at 5:00 p.m.] (prevailing Eastern time).

6. If the Debtors receive a Qualified Bid (as defined in the Bid Procedures) other than the Stalking Horse Bidder bid prior to the Bid Deadline, an Auction consistent with the Bid Procedures for the sale of the Purchased Assets shall be held at the offices of Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019 on [May 19], 2010, commencing at [10:00 a.m.] (prevailing Eastern Time), provided, however, that the Debtors, in their discretion, shall: (i) have the right to cancel the Auction if no Qualified Bids are received; and (ii) have the right to hold the Auction at another place (which shall be in New York City), date and time, with notice to the Creditors' Committee, all Qualified Bidders and any other invitees. The Debtors will provide notice of the Auction through the Notice of Auction and Sale, which will detail: (i) the Bid Deadline and the terms and conditions of the Sale, and (ii) the date, time and location of the Auction.

7. Each Qualified Bidder participating at the Auction shall confirm that: (i) it has not engaged in any collusion with respect to the bidding or the Sale, and (ii) its Qualified Bid is a good faith, bona fide offer and it intends to consummate the Proposed Transaction (defined in the Bid Procedures) if selected as the Successful Bidder.

8. The Auction will be conducted openly.

9. Bidding at the Auction will be transcribed or videotaped.

10. The Sale is an integral part of the Plan and shall be considered in connection with confirmation of the Plan at the Confirmation Hearing, which hearing shall be at a date and time to be determined by the Court in connection with the hearing on the Disclosure

Statement and which hearing shall be notice as set forth in any order approving the Disclosure Statement.

11. On or before five (5) business days after entry of this Bid Procedures Order, the Debtors will cause this Order and the Notice of Auction and Sale to be served by first class mail, postage prepaid, or other method reasonably calculated to provide notice of the Sale and the Auction, upon: (a) the U.S. Trustee; (b) counsel for the Creditors' Committee; (c) counsel to the agent for the prepetition secured lenders; (d) counsel for the Ad Hoc Senior Noteholders Committee and the DIP Lenders; (e) those parties that have requested notice pursuant to Bankruptcy Rule 2002; (f) all entities known by the Debtors to have asserted any lien, claim, interest or encumbrance in or on the Purchased Assets; (g) the non-Debtor counterparties to the Executory Contracts and Unexpired Leases; (h) the Attorneys General in the State where the Purchased Assets are located; (i) the United States Environmental Protection Agency; (j) any applicable state environmental agency; and (k) all persons who have expressed an interest in acquiring some or all of the Purchased Assets within the last six (6) months. In addition, the Debtors will serve the Notice of Auction and Sale as part of the solicitation package sent to parties entitled to vote on the Plan. The Debtors shall also, subject to applicable submission deadlines, publish the Notice of Auction and Sale once in one or more publications the Debtors deem appropriate, including but not limited to The New York Times (national edition). The foregoing methods of such service shall constitute good and sufficient notice of the Sale of the Purchased Assets, this Order, the Auction, and all proceedings to be held thereon (other than the Disclosure Statement and Confirmation Hearing; notice thereof shall be governed by separate order of the Court).

12. On or within five (5) business days after the entry of this Order, the Debtors shall serve a notice (the “Notice of Assumption and Assignment”), substantially in the form annexed hereto as Exhibit C, of potential assumption and assignment of the Executory Contracts and Unexpired Leases that are anticipated to be assumed and assigned to the Stalking Horse Bidder (the “Assigned Contracts”) on the applicable non-Debtor counterparties. The Notice of Assumption and Assignment shall set forth the amount, if any, that the Debtors contend is the amount needed to cure any defaults and pecuniary losses with respect to such Assigned Contracts (the “Cure Costs”). To the extent a counterparty to an Executory Contract and Unexpired Lease does not receive an Assumption Notice and is not listed on the Schedule of Rejected Contracts (to be filed as part of the Plan Supplement), the Cure Cost for such executory contract or unexpired lease shall be \$0.00. If the Debtors identify additional Executory Contracts and Unexpired Leases that might be assumed by the Debtors and assigned to the Stalking Horse Bidder, the Debtors will promptly send a supplemental notice of assumption and assignment (the “Supplemental Notice of Assumption and Assignment”) to the applicable counterparties to such contract or lease.

13. Unless the non-Debtor party to an Executory Contract or Unexpired Lease files an objection (the “Cure Cost/Assignment Objection”) to: (a) adequate assurance of future performance by the Purchaser, (b) its scheduled Cure Cost, and/or (c) to the proposed assumption, assignment and/or transfer of such Executory Contract or Unexpired Lease to the Purchaser by 5:00 p.m. (prevailing Eastern time) on the later of: (i) [April 15, 2010] and (ii) eight (8) days after service of the Supplemental Notice of Assumption and Assignment (such later date, “Cure Cost/Assignment Objection Deadline”) and serves a copy of the Cure Cost/Assignment Objection so as to be received no later than the Cure Cost/Assignment

Objection Deadline on the same day by: (i) Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019-6099 (Attn: Paul V. Shalhoub, Esq. and Robin Spigel, Esq.), co-counsel to the Debtors; (ii) Young Conaway Stargatt & Taylor, LLP, The Brandywine Building, 1000 West Street, 17th Floor, Wilmington, Delaware 19801 (Attn: Robert S. Brady, Esq. and Matthew B. Lunn, Esq.), co-counsel to the Debtors; (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Jane Leamy, Esq.); (iv) Otterbourg, Steindler, Houston & Rosen, P.C., 230 Park Avenue, New York, New York 10169 (Attn: Jenette A. Barrow-Bosshart, Esq. and Jessica M. Ward, Esq.), co-counsel to the Committee; (v) Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 Market Street, Wilmington, Delaware 19899 (Attn: Henry J. Jaffe, Esq. and John H. Schanne II, Esq.), co-counsel to the Creditors' Committee; (vi) Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, New York 10038 (Attn: Kristopher M. Hansen, Esq. and Jayme T. Goldstein, Esq.), co-counsel to the Stalking Horse Bidder, the Ad Hoc Senior Noteholders Committee and the DIP Lenders (as defined below); and (vii) Richards Layton & Finger, One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: Daniel J. DeFranceschi, Esq.), co-counsel to the Stalking Horse Bidder, the Ad Hoc Senior Noteholders Committee and the DIP Lenders (collectively, the "Notice Parties"), then such non-Debtor counterparty shall: (a) be forever barred, estopped and enjoined from (i) disputing the Cure Cost relating to any Executory Contract or Unexpired Lease set forth on the Notice of Assumption or Assignment or, if no Notice of Assumption or Assignment is received and such Executory Contract or Unexpired Lease is not listed on the Schedule of Rejected Contracts and Leases, as \$0.00; and (b) be deemed to have consented to the assumption and assignment of such Executory Contract or Unexpired Lease and shall be forever barred and estopped from asserting or claiming against the



Debtors, the Purchaser or any other assignee of the relevant Executory Contract or Unexpired Lease that any additional amounts are due or defaults exist, or conditions to assumption and assignment of such Executory Contract or Unexpired Lease must be satisfied (pursuant to Section 365(b)(1) of the Bankruptcy Code or otherwise).

14. If a non-Debtor counterparty to an Executory Contract or Unexpired Lease challenges a Cure Cost (a "Cure Dispute") pursuant to a Cure Cost/Assignment Objection, such objection shall be required to specify the Cure Cost proposed by the counterparty to the applicable Executory Contract or Unexpired Lease. To the extent a Cure Dispute relates solely to a Cure Cost, the Debtors shall be entitled to assume and assign the applicable Executory Contract or Unexpired Lease prior to the resolution of the Cure Dispute provided that the Purchaser establishes a reserve containing cash in an amount sufficient to pay the full amount asserted as cure payment by the non-Debtor party to such Executory Contract or Unexpired Lease (or such smaller amount as may be fixed or estimated by the Bankruptcy Court). To the extent the Cure Dispute is resolved or determined unfavorably to the applicable Debtor, the Debtors may, subject to the terms of the agreement with the Successful Bidder, reject the applicable Executory Contract or Unexpired Lease after such determination.

15. The Debtors, the Stalking Horse Bidder or the other Successful Bidder, as the case may be, may amend the Schedule of Rejected Contracts and Leases to add any executory contract or unexpired lease listed therein (thereby providing for the rejection of such executory contract or lease) or to delete any executory contract or unexpired lease listed therein (thereby providing for its assumption and assignment) no later than the tenth (10th) business day prior to the Confirmation Hearing (or such later date as is set forth in the Stalking Horse Agreement or such other asset purchase agreement that the Debtors may execute in connection

with the Successful Bid). The Debtors shall notify any non-Debtor party or parties to any such added or deleted Executory Contract or Unexpired Lease of such addition or deletion by written notice mailed within two (2) business days of such determination.

16. In the event that the Stalking Horse Bidder is not the Successful Bidder for the Purchased Assets, within one (1) business day after the conclusion of the Auction for the Purchased Assets, the Debtors will serve a notice identifying the Successful Bidder to the non-Debtor counterparties to the Executory Contracts and Unexpired Leases that have been identified in such successful bid. In such event, the non-Debtor counterparties to the Executory Contracts and Unexpired Leases shall have until 10:00 a.m. (prevailing Eastern Time) on the date of the Confirmation Hearing (unless the Confirmation Hearing is adjourned to a date that is at least six (6) days after the originally scheduled date of the Confirmation Hearing, in which case such non-Debtor counterparties shall have until 4:00 p.m. (prevailing Eastern Time) on the date that is three (3) business days prior to the Confirmation Hearing) (the “Adequate Assurance Objection Deadline”), to file and serve on the Notice Parties any objection to the assumption, assignment and/or transfer of such Executory Contract and Unexpired Lease solely based on the issue of whether the Successful Bidder can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code.

17. The Notice of Assumption and Assignment to be issued in connection with the proposed sale of the Purchased Assets, substantially in the form annexed hereto as Exhibit C, is approved.

18. The Bid Protections as set forth in the Stalking Horse Agreement are approved. The obligations of the Debtors to pay the Bid Protections to the Stalking Horse Bidder: (i) shall be entitled to administrative expense claim status under sections 503(b)(1)(A)

and 507(a)(2) of the Bankruptcy Code; and (ii) shall not be subordinate to any other administrative expense claim against the Debtors (other than any Carve-Out for professional fees and expenses included in the Final Order: (I) Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Grant Senior Liens and Superpriority Administrative Expense Status; (II) Approving Use of Cash Collateral of Prepetition Lender; (III) Granting Adequate Protection to Prepetition Lender; and (IV) Granting Related Relief [Docket No. 159] (as defined therein)). If incurred pursuant to the Stalking Horse Agreement, the Debtors shall, without further notice to or order of this Court, pay such amount(s) to the Stalking Horse Bidder in cash in accordance with the provisions of the Stalking Horse Agreement.

19. The Expense Amount and section 8.12 of the Stalking Horse Agreement are hereby approved and the Debtors are authorized, without any further Order of this Court, to pay the Expense Amount as set forth therein.

20. The proposed assumption and assignment of the Assigned Contracts and the Auction shall be conducted solely in accordance with the provisions of this Order, the Bid Procedures and the Assignment and Assumption Procedures, as applicable.

21. Except as otherwise provided herein and in the Bid Procedures, Local Rule 6004-1(c)(ii) is waived.

22. Prior to mailing the Notices of Assumption and Assignment, any Supplemental Notices of Assumption of Assignment or the Notice of Auction and Sale, the Debtors may fill in any missing dates and other information, correct any typographical errors, conform the provisions thereof to the provisions of this Order and make such other non-material, non-substantive changes as they deem necessary or appropriate.

23. Any conflict between the terms and provisions of this Order and the APA (as defined in the Plan), shall be resolved in favor of this Order.

24. The Debtors hereby are authorized and empowered to take such steps and expend such funds as are necessary to implement the terms of this Order.

25. This Court shall retain jurisdiction over all matters related to or arising from the Motion or the interpretation or implementation of this Order.

Dated: \_\_\_\_\_, 2010  
Wilmington, Delaware

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THE HONORABLE CHRISTOPHER S. SONTCHI  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 6**

**Summary of Stalking Horse Agreement**

**RATHGIBSON - ASSET PURCHASE AGREEMENT SUMMARY**

This summary is based on the draft Asset Purchase Agreement (the “APA”), dated as of March 8, 2010, by and among RathGibson Acquisition Co., LLC (the “Purchaser”), RG Tube Holdings LLC, RGCH Holdings Corp., RathGibson, Inc. and Greenville Tube Company (collectively, the “Sellers”). This summary is qualified in its entirety by the APA.

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|---|---|
| <p><b>Transaction</b></p>   | <p>Sale of substantially all of the assets of the Sellers to the Purchaser, but excluding certain non-operating assets.</p> <p>Assumption by the Purchaser of only the following liabilities (and all other types of liabilities will remain obligations of the Sellers):</p> <ul style="list-style-type: none"> <li>• post-closing liabilities arising under assumed contracts and assumed benefit/employment plans, to the extent they relate to events occurring after the closing;</li> <li>• cure costs with respect to any assumed contracts;</li> <li>• post-closing liabilities with respect to transferred employees, to the extent they relate to events occurring after the closing;</li> <li>• unused vacation, accrued compensation and medical benefits with respect to transferred employees;</li> <li>• certain COBRA liabilities for current and former employees;</li> <li>• contractual warranty claims for products/services sold post-petition but pre-closing;</li> <li>• all liabilities arising out of the post-closing conduct of the business, to the extent they relate to events or matters that first occur or exist after the closing;</li> <li>• all post-petition trade payables;</li> <li>• subject to receiving consent for the assignment of the IRB loan agreement, all liabilities for the payment of money under the IRB loan agreement;</li> <li>• certain pre-petition payables (including trade payables) and all post-petition ordinary course non-trade operating liabilities (such as rent, insurance premiums, etc.);</li> <li>• all inter-company payables (note that the Purchaser is also acquiring the corresponding inter-company receivables); and</li> <li>• certain state tax obligations, which would reduce the cash portion of the purchase price.</li> </ul> |
| <p><b>Purchase Price and Adjustments to Purchase Price</b><br/><b>(Section 1.3 and Article 2)</b></p> | <p>Aggregate consideration for the sale of assets will include a cash purchase price (as it may be adjusted) of \$93,000,000 and the assumption of the liabilities described above.</p> <p>The cash purchase price is subject to downward adjustment at closing in the event that (i) the Sellers’ net working capital on the closing date is less than the target net working capital of \$71,800,000 and (ii) the Purchaser pays or is obligated to pay cure costs under assumed contracts that exceed the amount of cure costs scheduled by the Sellers as</p>   |

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|--|--|
|  | <p>of the execution date of the APA.</p> <p>Additionally, the Purchaser will be entitled to reserve a portion of the cash purchase price in the event that any of the cure costs for any assumed contracts remain in dispute as of the Closing Date and if the Purchaser assumes certain state tax payment obligations. In the event that any disputed cure cost results in a cure cost higher than that scheduled by the Sellers, the Purchaser can retain the amount of the increase in cure costs from the reserved portion of the cash purchase price. Upon resolution of all disputed cure cost amounts, the Purchaser shall pay any remaining reserve amounts to the Sellers.</p>  |
| <p><b>Escrow</b><br/><b>(Section 2.2)</b></p>      | <p>\$7,500,000 of the purchase price shall be deposited in escrow in the amounts of \$5,000,000 at signing and \$2,500,000 no later than two (2) business days after the Approval Order is entered by the Bankruptcy Court.</p> <p>The escrow deposit will serve as security for post closing working capital adjustments, to satisfy costs and expenses relating to certain Nonassignable Assets, to satisfy the Sellers' tax indemnification obligations and for amounts owed to either the Purchaser or the Sellers as a result of the termination of the APA in certain circumstances.</p>   |
| <p><b>Termination</b><br/><b>(Section 3.4)</b></p> | <p>The APA may be terminated as follows:</p> <ul style="list-style-type: none"> <li>• by mutual written consent of the Sellers and the Purchaser prior to Closing;</li> <li>• by either party if the Closing has not been consummated by July 31, 2010, unless the requesting party is in material breach or violation of the APA;</li> <li>• by either party if consummation of the transactions contemplated by the APA would violate any law or is prohibited by a governmental body;</li> <li>• by the Purchaser if any Seller's Chapter 11 Case is dismissed or converted to a case under Chapter 7 of the Bankruptcy Code, or if a trustee or examiner is appointed in any such Chapter 11 Case;</li> <li>• by the Purchaser if (i) the Approval Motion is not filed with the Bankruptcy Court within one (1) Business Day after the Execution Date, (ii) the Approval Order shall not have been entered by the Bankruptcy Court by April 9, 2010 or (iii) following entry of the Approval Order, the Approval Order shall (A) fail to be in full force and effect, (B) have been reversed, (C) have been stayed and such stay shall continue to be in effect for more than fifteen days, or (D) have been modified or amended in any manner adverse to the Purchaser without the Purchaser's prior written consent;</li> <li>• by the Purchaser if the Sellers fail to use commercially reasonable efforts to require that Qualified Bids are due no later than May 19, 2010;</li> <li>• by the Purchaser if the Sellers fail to have held and closed the Auction on or prior to May 28, 2010, provided that the Purchaser shall not have the right to terminate the APA if no Qualified Bids other than the Stalking Horse Bid are received pursuant to the Bid Procedures;</li> <li>• by the Purchaser if (i) the Confirmation Order shall not have been entered by the Bankruptcy Court by June</li> </ul> |

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|  | <p>1, 2010 or (ii) following entry of the Confirmation Order; the Confirmation Order shall (A) fail to be in full force and effect, (B) have been reversed, (C) have been stayed and such stay shall continue to be in effect for more than fifteen days, or (D) have been modified or amended in any manner adverse to the Purchaser without the Purchaser's prior written consent;</p> <ul style="list-style-type: none"> <li>• by either party if any Seller has entered into, or shall have publicly announced its intention to enter into an agreement in principle, letter of intent, memorandum of understanding, definitive agreement or other arrangement, with any Person (other than the Purchaser or its Affiliates) with respect to any Alternative Transaction except in the event that entering into such agreement or document, or such announcement, relates to an Alternative Transaction with the Successful Bidder and the Purchaser is the Second-Highest Bidder;</li> <li>• automatically upon consummation of an Alternative Transaction;</li> <li>• by the Purchaser if there is a Material Adverse Effect;</li> <li>• by either party if (a) the other shall have breached or failed to perform any of its representations, warranties, covenants or other agreements contained in the APA, or if any representation or warranty shall have become untrue, and (b) any such occurrence would result in a failure of any condition set forth in <u>Sections 9.3(a)-(c)</u> or <u>9.2(a)-(b)</u>, as applicable, of the APA and is not curable or able to be performed, or, if curable or able to be performed, is not cured or performed prior to the earlier of (x) the Outside Date and (y) twenty (20) days after written notice of such breach, failure or occurrence is delivered to the breaching party;</li> <li>• by the Sellers if all of the conditions set forth in <u>Section 9.1</u>, <u>Section 9.2</u> and <u>Section 9.3</u> of the APA have been satisfied or waived and the Purchaser fails to deliver any portion of the Closing Date Purchase Price (other than the Deposit, the Aggregate Reserve Amount and the Aggregate Alleged Tax Liability Amount);</li> <li>• by the Purchaser if all of the conditions set forth in <u>Section 9.1</u>, <u>Section 9.2</u> and <u>Section 9.3</u> of the APA have been satisfied or waived and the Sellers fail to consummate the transactions contemplated by the APA; and</li> <li>• by the Purchaser if the Sellers fail to pay the Expense Amount, which failure continues for five (5) Business Days after the Expense Amount was initially due.</li> </ul> |
| <p><b>Break-Up Fee; Tail; Reimbursement Amount</b><br/><br/><b>(Section 3.6)</b></p> | <p>The Sellers shall pay a Break-Up Fee equal to 3.0% of the Pre-Adjusted Purchase Price as liquidated damages in the event that:</p> <ul style="list-style-type: none"> <li>• either party terminates the APA in connection with entry into or announcement of an Alternative Transaction (subject to certain exceptions);</li> <li>• Purchaser terminates after closing conditions have been satisfied or waived but the Sellers fail to consummate; or</li> <li>• an Alternative Transaction is consummated.</li> </ul> <p>In the event that the APA is terminated for any of the following reasons and the Sellers, within six (6) months of the effective date of such termination, enter into a binding written definitive agreement with respect to an Alternative</p>   |



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|  | <p>Transaction with any Person other than the Purchaser or its Controlling Affiliates, the Sellers shall pay the Break-Up Fee:</p> <ul style="list-style-type: none"> <li>• closing does not occur by the Outside Date;</li> <li>• issues relating to the Approval Motion and the Approval Order;</li> <li>• the Sellers fail to use commercially reasonable efforts to require that Qualified Bids be timely due;</li> <li>• the Auction is not held and closed by the specified date;</li> <li>• issues relating to the Confirmation Order;</li> <li>• the Sellers' breach or failure to perform their agreements under the APA; and</li> <li>• the Sellers' failure to pay the Expense Amount, which failure goes uncorrected for 5 business days.</li> </ul> <p>The Sellers shall pay the Reimbursement Amount, up to a maximum amount of \$1,000,000, for the Purchaser's fees and expenses in the event that the APA is terminated pursuant to the events listed above giving rise to the payment of the Break-Up Fee, and also in the following situations: the APA is terminated as a result of a legal bar, the Chapter 11 Cases being dismissed or converted or a Material Adverse Effect having occurred. The Reimbursement Amount is exclusive of the Expense Amount.</p> <p>In the event that the Sellers terminate the APA for either of the following reasons, the Sellers will be entitled to the disbursement of the escrow deposit, including all interest and other earnings accrued and earned thereon, as liquidated damages:</p> <ul style="list-style-type: none"> <li>• the Purchaser breaches or fails to perform its agreements under the APA; or</li> <li>• all of the conditions set forth in Section 9.1, Section 9.2 and Section 9.3 of the APA have been satisfied or waived and the Purchaser fails to deliver any portion of the Closing Date Purchase Price (other than the Deposit, the Aggregate Reserve Amount and the Aggregate Alleged Tax Liability).</li> </ul> <p>Disbursement of the deposit held in escrow as described above shall be the Sellers' sole remedy against the Purchaser.</p> |
| <p><b>Employees<br/>(Section 6.1)</b></p>                  | <p>With certain limited exceptions, the Purchaser shall offer at will employment to all employees of the Sellers. Such employment shall be at substantially the same hourly wage rate or salary level (excluding performance-based or incentive compensation, bonuses and equity-based compensation) and position in effect immediately prior to closing, except with respect to Assumed Employment Contracts and New Employment Contracts, which terms shall govern the employment of such transferred employees.</p>   |
| <p><b>Competing Bids and Auction<br/>(Section 7.2)</b></p> | <p>Between the Execution Date and the entry of the Approval Order, the Sellers shall not, directly or indirectly, (i) solicit, initiate, encourage or discuss any proposal or offer relating to any Alternative Transaction; (ii) furnish any information or facilitate or seek an Alternative Transaction or (iii) seek or support the Bankruptcy Court approval of a motion or order inconsistent with the APA. However, the Bid Procedures provide that the Sellers will have a marketing period of between 4 and 8 weeks and the ability to conduct in Auction as a means of attracting competing bids.</p>  |

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| <p><b>Affirmative Interim Operating Covenants (Section 8.1(a))</b></p> | <p>The Sellers must:</p> <ul style="list-style-type: none"> <li>• conduct the Business and operate and maintain their assets and properties in the Ordinary Course of Business;</li> <li>• maintain and keep their properties and Equipment in good repair, working order and condition (normal wear and tear excepted);</li> <li>• maintain in full force and effect the Insurance Policies;</li> <li>• use commercially reasonable best efforts to preserve the goodwill of and relationships with governmental bodies, customers, suppliers, vendors, distributors and other parties having business dealings with the Sellers in connection with the Business and comply with all applicable Laws and preserve assets; and</li> <li>• with respect to compliance with Environmental Laws, continue with any required remedial activities to address any Release or threatened Release of Hazardous Materials and operate and maintain its assets and properties in material compliance with Environmental Laws.</li> </ul>   |
| <p><b>Negative Interim Operating Covenants (Section 8.1(b))</b></p>    | <p>Without consent from the Purchaser, or as required by law or the courts, the Sellers must not, among other things:</p> <ul style="list-style-type: none"> <li>• acquire any material assets other than in the Ordinary Course of Business;</li> <li>• sell, lease, transfer or assign any material assets or properties other than sales of Inventory in the Ordinary Course of Business or the disposition of obsolete or immaterial assets;</li> <li>• accelerate, terminate (other than at its stated expiry date), extend, modify or amend in any material respect or cancel any Material Contract;</li> <li>• impose, suffer or create any Encumbrance (other than Permitted Encumbrances) upon any assets or properties;</li> <li>• incur or make any capital expenditures, except to the extent permitted by the DIP Credit Agreement;</li> <li>• create, incur, assume or guarantee any Indebtedness, except Indebtedness (other than Indebtedness for borrowed money) in the Ordinary Course of Business;</li> <li>• agree to any change in the rate of compensation, commission, bonus or other direct or indirect remuneration to or in respect of, any executive officers, directors or Significant Employees, other than the payment of bonuses and increases in base compensation made in the Ordinary Course of Business;</li> <li>• fail to make any planned capital expenditures or capital additions when and as contemplated by the 2011 Capital Budget;</li> <li>• make any material addition to or modification of any Seller Plan, other than (x) contributions to any Seller Plan made in the Ordinary Course of Business or (y) the extension of coverage to employees of such Seller who became eligible after the Execution Date;</li> <li>• terminate any executive officer, director or Significant Employee of such Seller, unless such termination is for cause;</li> </ul> |

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|   | <ul style="list-style-type: none"> <li>• make any distributions or dividends of the assets or properties of the Sellers (other than Excluded Assets) in respect of outstanding securities of the Sellers;</li> <li>• fail to manage working capital of the Business in the ordinary course of business since the Filing Date (including by failing to replenish Inventory in the normal and customary manner consistent with past practices and taking any action or failing to take any action that has the effect of accelerating sales to customers or other revenues, receivables or collections from customers or other Persons that would otherwise be expected to take place or be incurred at a later date, or postpone the payment of any accounts payable);</li> <li>• institute, settle or agree to settle any litigation, proceeding or other Action before any court or other governmental body</li> <li>• make any material changes in policies or practices relating to selling practices, returns, discounts or other terms of sale of the products and/or services of the Business, or in respect of the payment of trade accounts payable or other similar Liabilities incurred in connection with the Business;</li> <li>• make any material change in the nature of the Business;</li> <li>• amend or change any of the Seller Organizational Documents; or</li> <li>• make any distributions intended to be made under the Plan or make any payments or other distributions in respect of the claims, expenses or other items that fall within certain scheduled categories, except as permitted pursuant to the Bankruptcy Code or an order entered by the Bankruptcy Court.</li> </ul> |
| <p><b>Expense Amount</b><br/><b>(Section 8.12)</b></p>  | <p>No later than 2 business days following entry of the Bid Procedures Order, the Sellers shall pay an amount up to \$1,750,000 in cash to cover fees and disbursements of the Purchaser’s and its Affiliates’ counsel through the date of entry of the Bid Procedures Order.</p>   |
| <p><b>Closing Conditions</b><br/><b>(Article 9)</b></p> | <p><u>Mutual</u></p> <ul style="list-style-type: none"> <li>• No legal restraint or prohibition preventing the consummation of the transactions.</li> <li>• Receipt of requisite consents, filings or approvals of regulatory and other governmental bodies.</li> <li>• Bankruptcy Court shall have entered the Approval Order and the Confirmation Order, with each such order being a Final Order.</li> </ul> <p><u>Conditions Precedent to the Sellers’ Obligations</u></p> <ul style="list-style-type: none"> <li>• Each of (i) the representations and warranties of the Purchaser that are not qualified as to “materiality” or “material adverse effect” shall be true and correct in all material respects and (ii) the representations and warranties of the Purchaser that are qualified as to “materiality” or “material adverse effect” shall be true and correct, in each case, at and as of the Execution Date and at and as of the Closing Date (except for representations and warranties made as of a specified date, which shall be true and correct only as of the specified date), and the Sellers shall have received an officer’s certificate to that effect.</li> </ul>  |

- The Purchaser shall have performed and complied in all material respects with all obligations and agreements required by the APA and the Sellers shall have received an officer's certificate to that effect.
- Delivery of all closing deliverables by the Purchaser.
- Evidence of all necessary limited liability company action by the Purchaser in connection with the transactions contemplated by the APA, including resolutions or a written consent approving the transactions and an incumbency certificate.

Conditions Precedent to the Purchaser's Obligations

- Each of (i) the representations and warranties of each Seller that are not qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all material respects and (ii) the representations and warranties of each Seller that are qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects, in each case, at and as of the Execution Date (except for representations and warranties made as of a specified date, which shall be true and correct only as of the specified date), and the Purchaser shall have received an officer's certificate to that effect.
- Each of (i) the representations and warranties of each Seller set forth in Section 4.1 (Corporate Organization and Qualification), Section 4.3 (Authority Relative to this Agreement), Section 4.5(f) (Absence of Certain Developments - MAE), Section 4.10 (Brokers and Finders), and Section 4.11(a) (Title to Assets) shall be true and correct in all respects and (ii) the other representations and warranties of each Seller in this Agreement shall be true and correct in all respects (without regard to "materiality" or "Material Adverse Effect" qualifiers) except where such failure would not, individually or in the aggregate, have a Material Adverse Effect, in each case, at and as of the Closing Date (except for representations and warranties made as of a specified date, which shall be true and correct only as of the specified date), and the Purchaser shall have received an officer's certificate to that effect.
- The Sellers shall have performed and complied in all material respects with all obligations and agreements required by the APA and the Purchaser shall have received an officer's certificate to that effect.
- Delivery of all closing deliverables by the Sellers.
- Receipt of all scheduled consents, approvals, orders and/or Permits (as applicable), or evidence of the making or filing of the scheduled registrations, declarations, notifications and/or filings (as applicable).
- The Plan and Disclosure Statement, each as approved by the Bankruptcy Court, shall be in form and substance acceptable to the Purchaser (it being understood and agreed that copies of the Plan and Disclosure Statement provided to the Purchaser on the Execution Date are in form and substance satisfactory to the Purchaser).
- The conditions to each of confirmation and the Effective Date set forth in the Plan shall have been satisfied or waived and the Effective Date shall have occurred.
- Each Seller that holds a seller's permit under the Laws of the State of Wisconsin shall have delivered such permit to the Wisconsin Department of Revenue for cancellation.

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|   | <ul style="list-style-type: none"> <li>• The Sellers must have an aggregate amount of \$19,000,000 in cash on hand.</li> <li>• No Material Adverse Effect since the date of the APA.</li> </ul>   |
| <p><b>Tax</b><br/><b>(Section 11.1)</b></p> | <p>The Sellers shall indemnify and hold harmless the Purchaser from any claims, charges, interest or penalties imposed in connection with Transfer Taxes, which indemnification may be satisfied out of the escrow account.</p>   |
| <p><b>Specific Performance</b></p>          | <p>The Purchaser has the right to specific performance and may seek a court order requiring the Sellers to perform their obligations under the APA if all of the conditions have been satisfied or waived and the Sellers choose not to perform. The Sellers do not have a similar right to specific performance and have as their sole remedy for Purchaser's breach of its obligations the is the liquidated damages provision described above.</p> |