



## IMPORTANT NOTICE

This Disclosure Statement<sup>1</sup> 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 Plan. No representations have been authorized by the Bankruptcy Court concerning the Debtor, its business operations or the value of its assets, except as explicitly set forth in this Disclosure Statement.

Please refer to the Plan for definitions of the capitalized terms used in this Disclosure Statement.

The Debtor reserves the right to file an amended Plan and Disclosure Statement from time to time. The Debtor urges you to read this Disclosure Statement carefully for a discussion of voting instructions, recovery information, classification of claims, the history of the Debtor and the Case and a summary and analysis of the Plan.

This Disclosure Statement contains only a summary of the Plan. This Disclosure Statement is not intended to replace a careful and detailed review of the Plan, only to aid and supplement such review. This Disclosure Statement is qualified in its entirety by reference to the Plan, and the exhibits attached thereto and the agreements and documents described therein. If there is a conflict between the Plan and this Disclosure Statement, the provisions of the Plan will govern. You are encouraged to review the full text of the Plan and also read carefully the entire Disclosure Statement, including all exhibits, before deciding how to vote with respect to the Plan.

Except as expressly otherwise indicated, the statements in this Disclosure Statement are made as of June 19, 2009, 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 time after June 19, 2009. 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. In addition, the treatment of creditors under the Plan described herein is subject to change as such treatment continues to be negotiated.

In accordance with its prescribed duties, the Creditors' Committee and its professionals have been consulting with the Debtor and its professionals regarding administration of the estate, the assets, liabilities and financial conditions of the Debtors, the formulation of the Plan of Liquidation Under Chapter 11 of the Bankruptcy Code and other pertinent matters. The Creditors' Committee recommends that you vote to accept the Plan. Attached hereto as Exhibit C is the Creditors' Committee letter of support.

**YOU SHOULD NOT CONSTRUE THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. YOU SHOULD, THEREFORE, CONSULT WITH YOUR OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS IN CONNECTION WITH THE PLAN, THE SOLICITATION OF VOTES ON THE PLAN AND THE TRANSACTIONS CONTEMPLATED BY THE PLAN.**

As to contested matters, adversary proceedings and other actions or threatened actions, this Disclosure Statement is not, and is in no event to be construed as, an admission or stipulation as to any fact or allegation.

---

<sup>1</sup> Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Plan of Liquidation under Chapter 11 of the Bankruptcy Code Proposed by the Debtor Dated June 19, 2009 (the "Plan").

**TABLE OF CONTENTS**

- I. OVERVIEW OF DISCLOSURE STATEMENT ..... 2
- II. SUMMARY AND OVERVIEW OF THE PLAN ..... 5
- III. GENERAL INFORMATION ..... 1
  - A. Overview of Chapter 11 ..... 1
  - B. Description of the Debtor ..... 1
- IV. THE CHAPTER 11 CASE ..... 2
  - A. Events Leading to Chapter 11 Filing ..... 2
  - B. Filing of Petition ..... 2
  - C. Debtor’s Counsel ..... 3
  - D. Financial Consultants ..... 3
  - E. Creditors Committee ..... 3
  - F. Sale and Wind-down of Debtor’s business ..... 3
  - G. Termination of Retiree Benefits ..... 3
  - H. Settlement with Buckeye ..... 4
  - I. Settlement with the Union ..... 4
  - J. Tax Claims ..... 4
  - K. Claim Bar Date ..... 4
  - L. Assets and Liabilities of the Debtor’s Estate ..... 4
- V. PLAN OF LIQUIDATION ..... 5
  - A. General Description of the Plan ..... 6
  - B. Treatment of Unclassified Administrative Expense Claims and U.S. Trustee Fees ..... 6
    - 1. Administrative Expense Claims ..... 6
    - 2. U.S. Trustee Fees ..... 7
    - 3. RSS Acquisition, LLC ..... 7
    - 4. Bar Date For Administrative Expense Claims ..... 7
    - 5. Compensation and Reimbursement Claims ..... 8
  - C. Classification and Treatment of Allowed Claims and Equity Interests ..... 8
    - 1. Class 1: Secured Claims ..... 8
    - 2. Class 2: Priority Unsecured Tax Claims ..... 9
      - (a) ODT Gas Tax Claim ..... 9
    - 3. Class 3: PBGC ..... 9
    - 4. Class 4: OBWC ..... 10
    - 5. Class 5: General Unsecured Claims ..... 10
    - 6. Class 6: Equity Interests and Equity Related Interests ..... 11
  - D. Means of Implementing of the Plan and execution of the Plan ..... 11
    - 1. Plan Funding ..... 11
    - 2. Full and Final Satisfaction ..... 11
    - 3. Plan Administrator ..... 11
    - 4. Certain Tax Consequences of the Plan ..... 12
  - E. Provisions Governing Distributions ..... 12
    - 1. Distributions ..... 12
    - 2. Effective Date Distributions ..... 12
    - 3. Final Distribution and Final Distribution Date ..... 12
    - 4. Delivery of Distributions ..... 12

F.	Mutual Release .....	13
G.	Dissolution of the Creditors' Committee and Post-Effective Date Oversight .....	13
H.	Exculpation.....	14
I.	Releases by Recipients of Distributions .....	14
J.	Executory Contracts and Unexpired Leases .....	14
	1. Rejection of Executory Contracts and Unexpired Leases .....	14
	2. Benefit Plans .....	15
K.	Retention of Jurisdiction of the Bankruptcy Court.....	15
L.	Conditions to Effectiveness of the Plan.....	15
	1. Conditions .....	15
M.	Other Miscellaneous Provisions .....	16
	1. Modification of the Plan.....	16
	2. Revocation and Withdrawal of the Plan.....	16
	3. Cram-Down Reservation.....	16
VI.	CONFIRMATION REQUIREMENTS .....	16
A.	Confirmation of Plan – Requirements.....	16
B.	Conversion as an Alternative to Confirmation.....	17
C.	The Confirmation Hearing; Objection to the Plan .....	17
D.	Acceptance Necessary to Confirm the Plan .....	18
E.	Best Interests of Creditors .....	19
F.	Feasibility .....	20
G.	Confirmation of the Plan .....	20
VII.	CONCLUSION AND RECOMMENDATION.....	20

EXHIBITS

- Exhibit A** Plan of Liquidation under Chapter 11 of the Bankruptcy Code Proposed by the Debtor Dated June 19, 2009
- Exhibit B** Order of the Bankruptcy Court Approving the Disclosure Statement Dated [\_\_\_\_\_, 2009]
- Exhibit C** Creditors' Committee Letter of Support to Unsecured Creditors (to be provided)

## **I. OVERVIEW OF DISCLOSURE STATEMENT**

The Belden Locker Company (f/k/a Republic Storage Systems Company, Inc.) (the “Debtor”) prepared this Disclosure Statement to accompany and in connection with its solicitation of acceptances of the Plan of Liquidation Under Chapter 11 of the Bankruptcy Code Proposed by the Debtor Dated June 16, 2009 (the “Plan”) , filed in the Debtor’s bankruptcy proceeding, pending in the Bankruptcy Court. Pursuant to section 1125(f)(1) of the Bankruptcy Code, the Debtor provides this disclosure (the “Disclosure”) in order to provide information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the Debtor and the condition of the Debtor’s books and records, to enable a hypothetical reasonable investor typical of holders of Claims or Equity Interests of the relevant Class to make an informed judgment about whether to support the Plan. This Disclosure is intended for information purposes.

The Plan contemplates the liquidation and distribution of all remaining assets of the Debtor’s estate. The Debtor and the Creditors’ Committee recommend that you vote to accept the Plan. Each holder of a Claim entitled to vote on the Plan must, however, review the entire Plan carefully, including all exhibits, in their entirety, and determine whether to accept or reject the Plan based upon that holder’s independent judgment and evaluation. The description of the Plan in this Disclosure is in summary form and is qualified by reference to the actual terms and conditions set forth in the Plan, which should be reviewed carefully before making a decision to accept or reject the Plan.

A copy of the Plan, without exhibits, is attached to this Disclosure Statement and incorporated into this Disclosure Statement by reference as Exhibit A. A copy of the order of the Bankruptcy Court approving this Disclosure Statement is attached to this Disclosure Statement as Exhibit B. Unless otherwise specifically noted, all capitalized terms utilized herein shall have the meaning ascribed to such terms as set forth in the Plan.

The information contained in this Disclosure (including any exhibits) is based upon a review of the Debtor’s records, its business and its affairs and information provided by the Debtor’s employees or former employees. Except as otherwise expressly indicated, such information has not been subject to audit or independent review.

## **PROCEDURAL INFORMATION**

### **Voting**

Any holder of a Claim or Equity Interest whose legal, contractual or equitable rights are altered, modified or changed by the proposed treatment under the Plan is considered “Impaired.”

Each holder of a Claim or Equity Interest of a Class that is “Impaired” under the Plan, but is not deemed to have rejected the Plan, will receive this Disclosure Statement, the Plan, the Voting Procedures Order, Notice of the Confirmation Hearing and a Ballot for accepting or rejecting the Plan.

Each holder of a Claim or Equity Interest of a Class that is deemed by law to accept or reject the Plan will receive the Voting Procedures Order, Notice of the Confirmation Hearing and a Notice of non-voting status in the form approved by the Bankruptcy Court, but will not receive a Ballot and will not be eligible to vote on the Plan.

For a description of the Classes of Claims and Equity Interests and their respective treatment under the Plan, see Section II below.

**Which Classes of Claims are Entitled to Vote on the Joint Plan?**

Classes of Claims are entitled to vote on the Joint Plan as follows:

- Claims in Classes 3, 4 and 5 are Impaired and entitled to vote on the Plan (each a “Voting Class” and together the “Voting Classes”).
- **Claims in Classes 1 and 2 are unimpaired under the Plan, are deemed to have accepted the Plan, and will not be entitled to vote on the Plan.**
- Equity Interests in Class 6 will not receive a distribution under the Plan, and are thus deemed to have rejected the Plan and will not be entitled to vote on the Plan.

**You may only vote on the Plan with respect to a Claim or Equity Interest if that Claim belongs to a Voting Class under the Plan. By law, all holders of Equity Interests are deemed to have rejected the Plan and will not be entitled to vote. The Bankruptcy Court has fixed \_\_\_\_\_, 2009, as the Voting Record Date. To be eligible to vote on the Plan, persons with Claims that belong to the Voting Classes must have held them on the Voting Record Date.**

Under the Bankruptcy Code, the Plan will be deemed accepted by an Impaired Class of Claims if Calfee, Halter & Griswold LLP, Attn: Christine P. Buddner (the “Balloting Agent”) receives Ballots accepting the Plan representing at least:

- two-thirds of the total dollar amount of the allowed Claims in the Class that cast a Ballot; and
- more than one-half of the total number of allowed Claims in the Class that cast a Ballot.

The Voting Procedures Order has set forth which Claims are “allowed” for purposes of voting and designate the form of Ballot to be used by each Voting Class. For more information on voting procedures, please consult the Voting Procedures Order.

All properly completed Ballots received by the Balloting Agent on [\_\_\_\_\_, 2009 at 5:00 p.m. Eastern Time] (the “Voting Deadline”), will be counted in determining whether each Impaired Class entitled to vote on the Plan has accepted the Plan. All Ballots must be mailed, postage prepaid, to, and received by, Ballot Agent by the Voting Deadline. Any Ballots received after the Voting Deadline will not be counted. All Ballots must contain an original signature to be counted. No Ballots received by facsimile will be accepted.

This Disclosure Statement and the Plan are the only materials that you should use in determining how to vote on the Plan. The Debtor believes that approval of the Plan provides the greatest return to holders of Claims in the Voting Classes.

**Voting Recommendations**

The Debtor and the Creditors' Committee believe that the Plan presents the best opportunity for holders of Claims to maximize their respective recoveries. **The Debtor and the Creditors' Committee encourage holders of claims to vote to accept the Plan.**

The Ballots have been specifically designed for the purpose of soliciting votes on the Plan from each Class entitled to vote. For this reason, in voting on the Plan, please use only the Ballot sent to you with this Disclosure Statement. If you believe you have received the incorrect form of Ballot, you need another Ballot or you have any questions concerning the form of Ballot, please contact the Balloting Agent.

Please complete and sign your Ballot and return it either (i) with appropriate postage, in the enclosed pre-addressed envelope to the Balloting Agent; (ii) scanned or in pdf version by email; or, (iii) via facsimile. All correspondence with voting on the Plan should be directed to the Balloting Agent at the following address:

**Balloting Agent**

**By mail or overnight delivery:**

Calfee, Halter & Griswold LLP  
ATTN: Christine P. Buddner  
1400 KeyBank Center  
800 Superior Avenue  
Cleveland, Ohio 44114  
Email: cbuddner@calfee.com  
Facsimile: (216)241-0816

The Balloting Agent will prepare and file with the Bankruptcy Court a certification of the results of the voting on the Plan on a Class-by-Class basis.

Additional copies of the Ballots, this Disclosure Statement and the Plan are available upon request made to the Balloting Agent. Please contact the Balloting Agent with any questions relating to voting on the Plan.

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN AND OTHER DOCUMENTS RELATING TO THE PLAN. WHILE THE DEBTOR SUBMITS THAT THOSE SUMMARIES PROVIDE ADEQUATE INFORMATION WITH RESPECT TO THE DOCUMENTS SUMMARIZED, THESE SUMMARIES ARE QUALIFIED BY THE COMPLETE TEXT OF SUCH DOCUMENTS. IF ANY INCONSISTENCIES EXIST BETWEEN THE TERMS AND PROVISIONS OF THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR OTHER DOCUMENTS DESCRIBED HEREIN, THE TERMS AND PROVISIONS OF THE PLAN AND OTHER DOCUMENTS ARE CONTROLLING. EACH HOLDER OF AN IMPAIRED CLAIM SHOULD REVIEW THE ENTIRE PLAN AND ALL RELATED DOCUMENTS AND SEEK THE ADVICE OF ITS OWN COUNSEL BEFORE VOTING TO ACCEPT



OR REJECT THE PLAN. ANY CHANGES TO THESE DOCUMENTS WILL BE DESCRIBED AT THE HEARING ON THE CONFIRMATION OF THE PLAN.

THIS DISCLOSURE STATEMENT MAY NOT BE RELIED UPON BY ANY PERSON OR ENTITY FOR ANY PURPOSE OTHER THAN BY HOLDERS OF IMPAIRED CLAIMS OR INTERESTS ENTITLED TO VOTE ON THE PLAN IN DETERMINING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT WILL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY, OR BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN ON HOLDERS OF CLAIMS OR EQUITY INTERESTS.

EXCEPT TO THE EXTENT OTHERWISE SPECIFICALLY NOTED HEREIN, THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS GENERALLY INTENDED TO DESCRIBE FACTS AND CIRCUMSTANCES ONLY AS OF JUNE 16, 2009 AND NEITHER THE DELIVERY OF THIS DISCLOSURE STATEMENT NOR THE CONFIRMATION OF THE PLAN WILL CREATE ANY IMPLICATION, UNDER ANY CIRCUMSTANCES, THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS CORRECT AT ANY TIME AFTER JUNE 16, 2009 OR THAT THE DEBTOR WILL BE UNDER ANY OBLIGATION TO UPDATE SUCH INFORMATION IN THE FUTURE.

THE DEBTOR AND THE COMMITTEE OF UNSECURED CREDITORS BELIEVE THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTEREST OF EVERY CREDITOR AND RECOMMENDS THAT YOU VOTE TO ACCEPT THE PLAN.

## **II. SUMMARY AND OVERVIEW OF THE PLAN**

The following table briefly summarizes the classifications and treatment of Claims and Equity Interests under the Plan. This is a liquidation plan. All available assets will be used to fund the Plan, in accordance with the respective priorities of claimants. The Plan incorporates settlements with Pension Benefits Guarantee Corporation and Ohio Bureau of Workers Compensation, which allow for there to be some distribution to unsecured creditors, here approximately 3.5%.

<u>Class</u>	<u>Type of Claim or Equity Interest</u>	<u>Treatment</u>	<u>Estimated Recovery</u>	<u>Impairment</u>	<u>Voting</u>
N/A	Administrative Expense Claims (other than those set forth separately below)	Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to different treatment, on the Effective Date, or as soon thereafter as is reasonably practicable, the Plan Administrator shall pay to each holder of an Allowed Administrative Expense Claim, in full satisfaction of such Claim, an amount in Cash equal to the Allowed amount of the Claim.	100%	N/A	No
N/A	Compensation and Reimbursement Claims	All Professionals and Other Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by date that is no later than 30 days after the Confirmation Date, unless otherwise ordered by the Bankruptcy Court; and (ii) shall be paid in full by the Plan Administrator in such amounts as are allowed by the Bankruptcy Court (A) upon the date upon which the order relating to any such Administrative Expense Claim is entered, or (B) upon such other terms as may be mutually agreed upon between the holder of such an Administrative Expense Claim and the Debtor, or following the Effective Date, the Plan Administrator.	100%	N/A	No
N/A	U. S. Trustee Fees	All fees payable in this Chapter 11 Case under 28 U.S.C. § 1930 (the "U.S. Trustee Fees"), will, if not previously paid in full, be paid in Cash on the Effective Date and the Final Distribution Date, such fees will continue to be paid by the Plan Administrator as required by 28 U.S.C. § 1930 until such time as an order is entered by the Bankruptcy Court closing the Chapter 11 Case.	100%	N/A	No
N/A	RSS Acquisition, LLC Administrative	RSS Acquisition LLC has filed an Administrative Expense Claim. In full satisfaction of that Claim and all of its Claims, RSS Acquisition LLC has agreed to accept an Allowed Administrative Expense Claim	100%	N/A	No

	Expense Claim	in the amount of \$10,000, which Claim shall be paid in full on the Effective Date. RSS Acquisition LLC shall have no further Claim of any kind or nature against the Debtor or the Estate. The Confirmation Order shall constitute a finding that this is a reasonable settlement of the RSS Acquisition, LLC's Claims.			
<b>Class 1</b>	Secured Claim	Debtor does not believe that any Secured Claims remain. However, to the extent that any Secured Claims do remain, on the Effective Date or as soon as reasonably practicable thereafter, each holder of an Allowed Secured Claim shall be entitled to the payment to such holder of the sale or disposition proceeds of the property securing such holder's Allowed Secured Claim to the extent of the value of its interest in such property, less the costs and expenses of disposing of such property. Pursuant to the Court's order of April 28, 2006, any Liens securing an Allowed Secured Claim in Class 1 have been transferred to the proceeds of the sale or disposition of the property securing such holder's Allowed Secured Claim.	100%	Unimpaired	No
<b>Class 2</b>	Priority Unsecured Tax Claims	Except to the extent the holder of an Allowed Priority Unsecured Tax Claim agrees to a different treatment towards the satisfaction of such Claim, the Plan Administrator shall pay to each holder of an Allowed Priority Unsecured Tax Claim, an amount in cash equal to the Allowed Priority Unsecured Tax Claim on the Effective Date.	100%	Unimpaired	No
<b>Class 3</b>	Pension Benefit Guaranty Corporation (PBGC)	The PBGC has agreed to receive in full satisfaction of all of its Claims, including its priority unsecured claims and general unsecured claims of any nature and kind, a distribution in the amount of \$400,000 on the Effective Date.	Agreed Upon Amount	Impaired	Yes
<b>Class 4</b>	Ohio Bureau of Workers' Compensation (OBWC)	The OBWC has agreed to receive in full satisfaction of all of its Claims, including its administrative expense claims, priority unsecured tax claims and general unsecured claims of any nature and kind, a distribution in the amount of \$200,000 on the Effective Date.	Agreed Upon Amount	Impaired	Yes

<b>Class 5</b>	General Unsecured Claims	The holders of Allowed General Unsecured Claims shall receive their Pro Rata Share of all remaining Cash, that is available for Distribution, for Distribution to holders of Allowed Class 5 Claims after payment in full of all Administrative Expense Claims, including Professional fees and U.S. Trustee Fees, Claims in Class 1-4 and fees and costs of the Plan Administrator, on the Final Distribution Date.	Approximately 3.5%	Impaired	Yes
<b>Class 6</b>	Equity Interests and Equity Related Interests	As of the Effective Date, all Equity Interests will be canceled, barred, estopped and extinguished without further action under any applicable agreement, law, regulation, order, or rule. The holders of Equitable Interests will not receive or retain any rights, property, or distributions on account of their Equity Interests or Equity Related Claims under this Plan.	0%	Impaired	No (deemed to reject)

### **III. GENERAL INFORMATION**

#### **A. Overview of Chapter 11**

Chapter 11 is the primary business reorganization chapter of the Bankruptcy Code. Under Chapter 11 of the Bankruptcy Code, a Debtor is authorized to reorganize its business and affairs for 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 distributions of the value of a debtor's assets.

The commencement of a Chapter 11 case creates a bankruptcy estate that is comprised of all of the legal and equitable interests of a debtor as of the Petition Date of the Chapter 11 case. The Bankruptcy Code provides that a debtor may continue to operate its business and affairs and remain in possession of its property as a "debtor-in-possession."

The consummation of a plan of reorganization is the fundamental objective of a Chapter 11 reorganization case. A plan of reorganization sets forth the means for restructuring a debtor's business and satisfying claims against and interests in a debtor. Confirmation of a plan of reorganization by a bankruptcy court binds 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. Pursuant to section 1123(a)(5), a debtor is permitted to distribute its property to those Persons with an interest in such property. Also, pursuant to section 1129(a)(11) of the Bankruptcy Code, a plan may provide for the liquidation of the debtor.

Certain holders of claims against and interests in a debtor are permitted to vote to accept or reject the plan. Prior to soliciting acceptances of the proposed plan, however, section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding the plan. The debtor is submitting this Disclosure Statement to holders of claims against and equity interests in the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code.

#### **B. Description of the Debtor**

The Debtor traces its roots back to 1886 in Canton, Ohio, where its founders started Berger Manufacturing Company, which produced lengths of metal conductor pipe out of a basement workshop. In 1921, Berger Manufacturing Company merged with United Furnace Company and created the trade name Berloy which quickly became known nationwide for steel furniture, storage products, lockers and shelving. The company fostered the creation of Republic Steel Corporation in 1930 and built essential components for ships and planes throughout the war years. Post-war, the company began to focus on the storage systems that were the Debtor's core business when it filed the bankruptcy petition in 2006.

In 1984, Jones & Laughlin Steel merged with Republic Steel Corporation, forming LTV Steel Corporation ("LTV"). In 1986, LTV filed its first Chapter 11 bankruptcy proceeding. During this proceeding, LTV divested its non-core (steelmaking) businesses including its Republic Storage Systems division. The division's employees purchased the business and founded Republic Storage Systems Company, Inc, what was the independent, employee owed company of Republic Storage Systems. The Debtor was headquartered in Canton, Ohio, employed approximately 400 people and operated over a million square feet of warehouse, manufacturing and office space.

The Debtor manufactured several lines of shelving and storage products including lockers, industrial storage products, custom designed mezzanine systems and engineered storage systems. The

lockers produced by Debtor were manufactured in a variety of configurations to suit corridor, athletic room and other applications. The Debtor's industrial storage line included clip shelving, boltless shelf framing systems, racks, metal lumber slotted angle, automotive shelving, cabinets, book units and shop furniture. The Debtor's industrial storage product line included custom built ClereSpan® Mezzanine Systems which were custom-designed by its professional engineers to match customers' area, height, load, use and color requirements. The Debtor also manufactured multilevel, high-rise and integrated engineered storage systems to meet customer material handling needs. These systems provided multilevel areas with full access aisles to conserve customers' warehouse space. The high-rise systems were designed by qualified structural engineers for long-term reliability and safety and could be incorporated into automated storage and retrieval systems. Integrated systems combined Debtor's products into comprehensive material handling and storage solutions that can include conveyors, sprinklers, HVAC, electrical conduit and other piping systems.

#### **IV. THE CHAPTER 11 CASE**

##### **A. Events Leading to Chapter 11 Filing.**

In 2004, a sharp run-up in steel prices severely affected the Debtor's income statement. Due to the Debtor's long lead times on fixed price construction, related customer contracts and general business conditions, the severe rise in steel prices could not be immediately passed on to consumers. Thus, while steel prices paid by the Debtor effectively doubled between 2002 and 2005, going from \$412 to \$800 per ton, the Debtor was only able to increase its prices by 30% since 1998.

Additionally, in July 2003, during the peak of the Debtor's most important cycle, the Debtor's Canton, Ohio, facility was significantly impaired by a flood that resulted in \$11.9 Million of damage and a six week work outage. The flooding was so severe that both President Bush and Governor Taft declared all of Stark County a disaster area. With employee support (including significant concessions from hourly and salaried workers), \$6.0 Million in insurance proceeds, and a \$5.9 Million loan from U.S. Small Business Administration, the Debtor was able to rebuild and repair its facilities and resume operations. Nevertheless, despite the Debtor's efforts, manufacturing levels suffered as the Debtor worked to restore its plant, and cost and productivity factors threatened the ongoing viability of the business.

Finally, high legacy costs associated with healthcare and pension benefits for both union and salaried staff and union and salaried retirees during this period had a negative impact on the Debtor. Annual retiree healthcare costs increased 379% since 1998, from \$800,000 to \$3,839,000, and annual pension costs increased 100% during that period, from \$1,266,000 to \$2,551,000.

The combination of all of the events and factors described above, and the resulting performance issues, negatively affected the Debtor's finances and threatened its relationship with its working capital lender and the Debtor's ability to obtain additional or replacement financing.

##### **B. Filing of Petition**

On March 14, 2006, the Debtor commenced its reorganization case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1330. The Debtor continued in possession of its properties and operated and managed its business as debtor in possession, pursuant to §§ 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this chapter 11 case.

### **C. Debtor's Counsel**

The Debtor retained Calfee, Halter & Griswold, LLP as its legal counsel to represent it in connection with the Chapter 11 Case. On March 31, 2006, the Court approved the retention, and counsel for the debtor has been actively involved in the Chapter 11 Case.

### **D. Financial Consultants**

The Debtor retained Newmarket Partners LLC as its operational and financial consultants in connection with the Chapter 11 Case. On March 31, 2006, the Court approved the retention, and Newmarket Partners LLC was actively involved in the Chapter 11 Case. Subsequently, the Debtors retained Thomas Moore of Thomas G. Moore, CPA, Ltd. as its financial consultants and responsible person. Thomas Moore is currently actively involved in the Chapter 11 Case.

### **E. Creditors Committee**

On March 24, 2006, the United States Trustee (the "US Trustee") appointed the Creditors' Committee. The Creditors' Committee retained Borges & Associates, LLC and Buckley King, LPA as its counsel. Counsel for the Creditors' Committee has been actively involved in the Debtor's chapter 11 case.

### **F. Sale and Wind-down of Debtor's business**

On March 15, 2006, the Debtor filed motions seeking permission to sell its assets free and clear of all liens and interests to RSS Acquisition, LLC or another successful bidder, and (A) Establishing Bidding Procedures, (B) Authorizing Payment of a Breakup Fee, (C) Scheduling an Auction and Sale Hearing, and (D) Approving Sale Notice Procedures of Debtor's assets. On April 13, 2006, the Court issued an Amended Order (A) Establishing Bidding Procedures, (B) Authorizing Payment of a Breakup Fee, (C) Scheduling an Auction and Sale Hearing, and (D) Approving Sale Notice Procedures of Debtor's assets. Thereafter, Debtor entered into a transaction with Buckeye RSS, LLC, a Delaware corporation ("Buckeye") for the sale of Debtor's assets to Buckeye (the "Sale"). On April 28, 2006, the Court issued an Order approving the Sale, as amended by the Court's May 11, 2006 Order, and the sale closed shortly thereafter.

The Sale was governed by an asset purchase agreement, executed between the Debtor and Buckeye (the "Asset Purchase Agreement"). Pursuant to section 2.2(a)(iv) of the Asset Purchase Agreement, Buckeye assumed all of the Debtor's liabilities to the U.S. Small Business Administration up to, but not exceeding, \$6,000,000. Additionally, pursuant to the terms of the Asset Purchase Agreement, GE Business Capital Corporation received \$7,150,456.82 in satisfaction of secured pre-petition debt and as cash collateral for letters of credit issued by GE Business Capital Corporation.

Shortly after the Sale was completed, the Debtor went into liquidation mode.

### **G. Termination of Retiree Benefits**

On May 2, 2006, the Debtor moved the Court for order authorizing it to terminate its retiree benefits pursuant to section 1114 of the Bankruptcy Code. On May 24, 2006, the Court issued a stipulated order granting the motion for an order under section 1114 for authorization to terminate retiree benefits. Pursuant to the May 24th order, all life insurance coverage for union and non-union retirees were terminated as of May 15, 2006. Additionally, all retiree medical coverage for non-union retirees was terminated as of May 15, 2006. Finally, the order provided that, in exchange for a waiver of any claims for retiree medical or insurance coverage, all union retirees or surviving spouses, and any non-

union retiree or surviving spouses that opted to execute a waiver, would receive an extension of medical coverage through July 31, 2006. Thereafter, the Debtor had no further duty to pay any premiums or provide any further medical coverage on behalf of any retiree.

#### **H. Settlement with Buckeye**

Post Sale, a dispute arose between the Debtor and Buckeye regarding due and owing the Asset Purchase Agreement. After extensive negotiations, the Debtor and Buckeye agreed to resolve their dispute through a release to the Debtor of all funds held in escrow, pursuant to the Asset Purchase Agreement, and the payment of an additional \$250,000 to the Debtor by Buckeye. This settlement was approved by order of the Bankruptcy Court on May 30, 2007.

#### **I. Settlement with the Union**

Subsequent to the Petition Date, three former employees of the Debtor, represented by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (the "USW"), filed grievances protesting their termination by the Debtor. After extensive negotiations, the Debtor and USW, on behalf of the employees, agreed to resolve their disputes through a one-time payment of \$7,500 to each of the employees in exchange for a complete release of all claims and causes of action asserted by the employees and in satisfaction of the USW's claim filed in connection with these matters. This settlement was approved by order of the Court on May 30, 2007.

#### **J. Tax Claims**

Administrative and priority tax claims have been filed by the Ohio Bureau of Workers' Compensation ("OBWC"), the Ohio Department of Taxation ("ODT") and the Pension Benefit Guaranty Corporation ("PBGC"). A summary of these claims are set forth herein.

#### **K. Claim Bar Date**

On June 29, 2006, the Debtor filed its motion to establish a claims bar date and approve notice of the claim bar date. On July 24, 2006, the Court granted the motion to establish a claims bar date, approved the form of notice of the claims bar date, and established the claims bar date as September 11, 2006.

#### **L. Assets and Liabilities of the Debtor's Estate**

The Debtor's assets consist solely of the remaining cash realized in the amount of \$1,078,228.14 by the Debtor from the sale of its assets to Buckeye RSS, LLC. Under the Plan, the Debtor will not retain any of its Causes of Action. The Debtor has reviewed its preference claims with the Creditors' Committee, and has determined that the cost of pursuing avoidance actions in relation to the potential recovery does not warrant pursuing such actions.

It is Debtor's belief that all Secured Claims have been satisfied or assigned and assumed by Buckeye RSS, LLC.

Moreover, as stated above, Debtor intends to satisfy all Administrative and Priority Unsecured Tax Claims asserted against the Estate, pay the settlement amounts of the PBGC and the OBWC and terminate any Interest arising from Equity Interests or Equity Related Claims. Thereafter, the only claims left and entitled to distribution will be Allowed Unsecured Claims in Class 5.



**Sources and Usage Chart:** the Debtor anticipates that the assets of the Debtor's estate will be distributed in accordance with the following chart. However, this is merely an estimate of anticipated distributions as of the date of this Disclosure Statement. Because of the estimate of estimated and future professional fees and U.S. Trustee fees, actual distributions for administrative and general unsecured claims under the Plan may vary, but should not vary greatly.

	<u>Claim Type</u>	<u>Amount to be Distributed</u>	<u>Accrued and Unpaid Professional Fees</u>	<u>Estimated and Future Professional Fees</u>
	Secured Claims	\$0.00		
	Administrative Claims	\$88,603 <sup>2</sup>	\$28,603	\$50,000
	Priority Unsecured Tax Claims	\$190,035.16		
	PBGC Claims	\$400,000		
	OBWC Claims	\$200,000		
	General Unsecured Claims	\$199,589.98 <sup>3</sup>		
Total Amount Available for <u>Distribution:</u>		<b>\$1,078,228.14<sup>4</sup></b>		

Thus, it is expected that the distribution to general unsecured creditors in class 5 will be approximately 3.5 percent (\$199,589.98 available for distribution divided by \$5,699,539.36 in general unsecured claims). While the Debtor regrets that this number is fairly small, it does represent some recovery, made possible by the sale of the Debtor's assets and the settlements with PBGC and OBWC. In the Debtor's view, if the Plan is not confirmed and the case is converted to a chapter 7 there will either be no distribution at all to unsecured creditors, or a much smaller distribution.

**V. PLAN OF LIQUIDATION**

**THE FOLLOWING DISCUSSION OF THE PLAN CONSTITUTES A SUMMARY ONLY AND IS QUALIFIED IN ITS ENTIRETY BY THE TERMS OF THE PLAN ITSELF. YOU SHOULD READ THE PLAN BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR**

<sup>2</sup> Administrative Claims include: (i) the settled claim of RSS Acquisition, LLC, (ii) fees of the United States Trustee, (iii) accrued and unpaid professional fees and (iv) future and estimated professional fees.

<sup>3</sup> The total distribution to General Unsecured Creditors is an estimate based on the information the Debtor has as of June 19, 2009. This amount may change somewhat if the estimate amount related to Administrative Claims is not accurate.

<sup>4</sup> The total amount available for distribution may include future accrued interest.

**REJECT THE PLAN. CHANGES MAY BE MADE TO THE PLAN. ANY SUCH CHANGES MADE TO THE PLAN WILL BE DESCRIBED AT THE CONFIRMATION HEARING. A COPY OF THE PLAN IS ATTACHED AS EXHIBIT A TO THIS DISCLOSURE STATEMENT.**

**A. General Description of the Plan**

The Debtor's liquidation analysis is embodied in the Plan. Under the Plan, Claims against, and Interests in, the Debtor are divided into "Classes of Claims" or "Classes" according to their relative priority and other criteria. Though the Plan is divided into Classes, the Plan does not seek to allow any Claim, any particular holder of a Claim's entitlement to Distributions under the Plan, or, other than for voting purposes, a holder of a Claim's entitlement to qualify for a particular Class.

Section 1123 of the Bankruptcy Code requires that a plan of reorganization classify the Claims of a debtor's creditors (other than certain Claims, including expenses of administration and taxes) and the interests of its equity holders. The Bankruptcy Code also provides that, except for certain Claims classified for administrative convenience, a plan of reorganization may place a Claim of a creditor or an interest of an equity holder in a particular Class only if such a Claim or interest is substantially similar to the other Claims or interests of such Class.

The Plan does not classify expenses of administration and places (1) Secured Claims, (2) Priority Unsecured Tax Claims, (3) the claims of the PBGC, (4) the claims of the OBWC, (5) General Unsecured Claims, and (6) Interests, (including Equity Interests and Equity Related Claims), in separate Classes. The Plan does not contemplate the payment of any personal property taxes; no personal property tax claims were scheduled and no claims were filed requesting the payment of personal property taxes.

The Debtor believes that it has classified all Claims and Equity Interests in compliance with the requirements of Section 1123 of the Bankruptcy Code. If a holder of a Claim or Equity Interest challenges such classification of Claims or Equity Interests and the Bankruptcy Court finds that a different classification is required for the Plan to be confirmed, then the Debtor, to the extent permitted by the Bankruptcy Court, intends to make such reasonable modifications to the classifications of Claims or Equity Interests under the Plan to provide for whatever classification might be required by the Bankruptcy Court for confirmation. EXCEPT TO THE EXTENT THAT SUCH MODIFICATION OR CLASSIFICATION ADVERSELY AFFECTS THE TREATMENT OF A HOLDER OF A CLAIM OR AN EQUITY INTEREST AND REQUIRES RE-SOLICITATION, ACCEPTANCE OF THE PLAN BY ANY HOLDER OF A CLAIM PURSUANT TO THIS SOLICITATION WILL BE DEEMED TO BE A CONSENT TO THE PLAN'S TREATMENT OF SUCH HOLDER REGARDLESS OF THE CLASS TO WHICH SUCH HOLDER IS ULTIMATELY DEEMED TO BE A MEMBER.

**B. Treatment of Unclassified Administrative Expense Claims and U.S. Trustee Fees.**

In addition to those Claims and Equity Interests which have been placed in Classes 1 through 6, the Plan provides for a category of Claims which are not classified -- Administrative Claims. The treatment of such claims is dictated by Section 1129(a)(9) of the Bankruptcy Code, and the holders of such claims are not entitled to vote to accept or reject the Plan.

1. Administrative Expense Claims

The first type of unclassified Claim consists of Administrative Claims. An Administrative Expense Claim is a Claim for costs and expenses of administration allowed under sections 503(b) and 507(b) of the Bankruptcy Code, including (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estate and operating the businesses of the Debtor, including the wind-

down of the Estate; (b) compensation for legal, financial advisory, accounting, and other services and reimbursement of expenses awarded or allowed under sections 330(a) or 331 of the Bankruptcy Code; and (c) all fees and charges assessed against the Estate under chapter 123 of title 28, United States Code, 28 U.S.C. § 1911-1930.

There are accrued Administrative Claims for professional fees. The Debtor anticipates that the total Administrative Claims incurred will be approximately \$88,603, which includes the Claim of RSS Acquisition, LLC, the already earned but not yet paid and estimated fees of the Debtor's and Creditors' Committee's Professionals.

Each Allowed Administrative Claim shall be paid in full, in Cash on the later of a) the Effective Date, or b) as soon as practicable; provided, however, that such Person may be treated on such less favorable terms to the extent such Person so agrees. Such Administrative Expense Claims shall include costs incurred in the operation of the Debtor's business after the Petition Date, the fees and expenses of Professionals retained by the Debtor, Professionals retained by the Unsecured Creditors Committee, and fees due to the U.S. Trustee pursuant to 28 U.S.C. § 1930.

## 2. U.S. Trustee Fees

All fees payable in this Chapter 11 Case under 28 U.S.C. § 1930, will, if not previously paid in full, be paid in Cash on the Effective Date and the Final Distribution Date, such fees will continue to be paid by the Plan Administrator as required by 28 U.S.C. § 1930 until such time as an order is entered by the Bankruptcy Court closing the Chapter 11 Case.

## 3. RSS Acquisition, LLC

The Debtor filed an objection to the allowance of RSS Acquisition LLC's administrative expense claim. RSS Acquisition LLC filed a response to the Debtor's objection, and the Debtor requested that the Bankruptcy Court rule as a matter of law that RSS Acquisition LLC was not entitled to an administrative expense claim for the Debtor's alleged misuse of its proprietary information. The Bankruptcy Court denied the request, and noticed the motion for an evidentiary hearing.

RSS Acquisition LLC has agreed to accept in full satisfaction of all of its Claims, including its administrative expense claim, an Allowed Administrative Expense Claim in the amount of \$10,000, which Claim shall be paid in full on the Effective Date. RSS Acquisition LLC shall have no further Claim of any kind or nature against the Debtor or the Estate. Based on the cost to litigate the RSS Acquisition, LLC Claim, the settlement is appropriate. The Creditors' Committee supports this resolution of RSS Acquisition LLC's claim. The Confirmation Order shall be a finding that this is a reasonable settlement of the RSS Acquisition, LLC's Claims.

## 4. Bar Date For Post-Confirmation Administrative Expense Claims

Pursuant to the Bar Date Order, September 11, 2006 was the last day to file requests for payment of Administrative Claims that arose or accrued prior to September 11, 2006. Except as otherwise provided, unless previously filed, requests for payment of Administrative Expense Claims that arose on or after the Bar Date must be filed and served on the Debtor pursuant to the procedures specified in the Confirmation Order, no later than **[insert final date to object the confirmation of the Plan]**. Holders of Administrative Expense Claims arising after the Confirmation Date that do not file and serve the required request by the applicable deadline set forth herein will be forever barred from asserting such Claims. Objections to such requests must be filed and served on the requesting party by the later of: (x)

30 days after the Confirmation Date, (y) 30 days after the filing of the applicable request for payment of Administrative Expense Claim, or (z) such later date as provided for by order of the Bankruptcy Court.

#### 5. Compensation and Reimbursement Claims

All Professionals and other Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by date that is no later than 30 days after the Confirmation Date, unless otherwise ordered by the Bankruptcy Court; and (ii) shall be paid in full by the Plan Administrator in such amounts as are allowed by the Bankruptcy Court (A) upon the date upon which the order relating to any such Administrative Expense Claim is entered, or (B) upon such other terms as may be mutually agreed upon between the holder of such an Administrative Expense Claim and the Debtor, or following the Effective Date, the Plan Administrator.

#### **C. Classification and Treatment of Allowed Claims and Equity Interests.**

The Plan divides Allowed Claims against, and Equity Interests in, the Debtor into various classes that the Debtor believes is in accordance with the classification requirements established by the Bankruptcy Code. The surrender of Collateral or the distribution of Cash to the holders of Allowed Claims under the Plan are in satisfaction of such Allowed Claims. All Claims against, and Equity Interests in, the Debtor arise prior to the Petition Date will be discharged under the Plan on the Effective Date of the Plan to the extent provided in the Plan or the Confirmation Order.

Unless otherwise specifically provided for in the Plan, the Confirmation Order or another Bankruptcy Court order or required by applicable bankruptcy law, interest shall not accrue on Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on account of any Claim. Nor shall interest accrue or be paid on any Claim in respect of the period from the Petition Date to the date a Disputed Claim becomes an Allowed Claim.

A summary of the classification and treatment of Allowed Claims and Allowed Interests under the Plan is set forth below.

##### 1. Class 1: Secured Claims

Class 1 consists of miscellaneous Secured Claims, which are Claims (or portions thereof), if any, secured by a Lien on property in which the Estate has an interest or that is subject to setoff under section 533 of the Bankruptcy Code or applicable law, to the extent of the value of the Claim holder's interest in the relevant Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) and, if applicable, section 1129(b) of the Bankruptcy Code.

Debtor does not believe that any Secured Claims remain. However, to the extent that any Secured Claims do remain, on the Effective Date or as soon as reasonably practicable thereafter, each holder of an Allowed Secured Claim shall be entitled to the payment to such holder of the sale or disposition proceeds of the property securing such holder's Allowed Secured Claim to the extent of the value of its interest in such property, less the costs and expenses of disposing of such property. Pursuant to the Court's order of April 28, 2006, any Liens securing an Allowed Secured Claim in Class 1 have been transferred to the proceeds of the sale or disposition of the property securing such holder's Allowed Secured Claim.

**Class 1 is not Impaired under the Plan. Each holder of an Allowed Class 1 Claim is conclusively presumed to have accepted the Plan and, consequently, is not entitled to vote to accept or reject the Plan.**

2. Class 2: Priority Unsecured Tax Claims

Class 2 is unimpaired. Class 2 consists of Priority Unsecured Tax Claims, which are Claims (or portions thereof), if any, entitled to priority in payment pursuant to section 507(a) of the Bankruptcy Code that is not an Administrative Expense Claim. As allowed by section 1129(a)(9)(C) of the Bankruptcy Code each holder of a priority tax claim will be paid the total value of their claim, as listed on Exhibit A attached to the Plan, on the Effective Date of the Plan.

Except to the extent the holder of an Allowed Priority Tax Claim agrees to a different treatment towards the satisfaction of such Claim, the Plan Administrator shall pay to each holder of an Allowed Priority Unsecured Tax Claim, an amount in cash equal to the Allowed Priority Unsecured Tax Claim, an amount in Cash equal to the Allowed Amount of such Claim on the Effective Date. The holder of an Allowed Priority Unsecured Tax Claim will not be entitled to receive any payment on account of any interest or penalty arising with respect to or in connection with the Allowed Priority Tax Claim, unless such interest or penalty is part of an Allowed Claim that is allowed by order of the Bankruptcy Court. Any such Claim or demand for any such penalty will be deemed disallowed by Confirmation of this Plan and the holder of an Allowed Priority Tax Claim will be enjoined from assessing or attempting to collect such interest and penalty from the Estate. A complete list of Class 2 Claims and the amount of each claim is attached to the Plan as Exhibit A.

(a) ODT Gas Tax Claim

ODT filed two proofs of claim: (i) a claim in the amount of \$32,871.51 representing alleged past due sales tax, including interest and penalties; and (ii) a claim, that was subsequently amended, in the amount of \$283,516.28 for alleged past due natural gas use tax and commercial activity tax. The Debtor filed an objection to the ODT claims requesting that the above referenced claims be denied in full. The Debtor disputed the claims for three reasons: (i) the sale of natural gas is exempt from taxes under Ohio law; (ii) any interest on any alleged tax is not allowed priority status under the Bankruptcy Code and Ohio law; and (iii) the alleged penalty is not entitled to priority status under the Bankruptcy Code. The ODT filed a response to the Debtor's objection wherein it asserted that its claims were valid and should be allowed as filed. In full satisfaction of aforementioned claims and all of its claims, the ODT agreed and accepted an Allowed Priority Unsecured Tax Claim in the total amount of \$184,305.66, which will receive a distribution in full on the Effective Date, and a general unsecured claim in the total amount of \$111,524.43, which will receive distribution with the other general unsecured claims in Class 5. This settlement was approved by order of the Bankruptcy Court on March 3, 2008.

**Class 2 is not Impaired under the Plan. Each holder of an Allowed Class 2 Claim is conclusively presumed to have accepted the Plan and, consequently, is not entitled to vote to accept or reject the Plan.**

3. Class 3: PBGC

The PBGC filed six alleged priority claims, which include the following: (i) an estimated claim in the amount of \$22,200,000.00 (including an unliquidated amount entitled to priority status pursuant to sections 503(b)(1) and 507(a)(5) of the Bankruptcy Code) for underfunded pension plan benefit liabilities for the Debtor's bargaining unit employees plan; (ii) an estimated unsecured claim in the amount of \$3,833,157.00 (including \$174,906 entitled to priority status pursuant to section 507(a)(5) of the

Bankruptcy Code) for minimum funding contributions due for the Debtor's bargaining unit employees plan; (iii) an estimated unsecured claim in the amount of \$14,639.94 (including an unliquidated amount entitled to as a priority status pursuant to sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code) for premiums due pursuant to 29 U.S.C. § 1307 for the Debtor's bargaining unit employees pension plan; (iv) an estimated claim in the amount of \$6,600,000 (including an unliquidated amount entitled to as a priority status pursuant to sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code) for underfunded pension plan benefit liabilities under 29 U.S.C. §§ 1362 and 1368 for the Debtor's non bargaining unit employees plan; (v) an estimated unsecured claim in the amount of \$1,663,399 (including \$94,924 entitled to a priority status pursuant section 507(a)(5) of the Bankruptcy Code) for the minimum funding contributions due for the Debtor's non-bargaining unit employees plan; and (vi) a claim in an unstated unliquidated entitled to priority status pursuant to section 503(b)(1) and 507(a)(2) of the Bankruptcy Code for premiums due pursuant to 29 U.S.C. §1307 for the Debtor's previous non bargaining unit employees pension plan. A complete list of Class 3 Claims and the amount of each Claim is attached to the Plan as Exhibit B.

After negotiations with the Creditors' Committee, the PBGC has accepted and agreed to receive in full satisfaction of all of its Claims, including its priority unsecured claims and general unsecured claims of any nature and kind, a distribution in the amount of \$400,000 on the Effective Date. The Creditors' Committee supports this resolution of the PBGC's claims.

**Class 3 is Impaired under the Plan. The holder of the Allowed Class 3 Claim is entitled to vote to accept or reject the Plan. The Confirmation Order shall be a finding that this is a reasonable settlement of the Class 3 Claims.**

4. Class 4: OBWC

On July 12, 2007 the Debtor filed an objection to the OBWC's proofs of claim asserting: (i) administrative expense claims, (ii) a priority tax claim; and, (iii) a general unsecured claim (collectively, the "OBWC Claims"). Subsequently, OBWC filed a response to the Debtor's objection and the Debtor requested that the Bankruptcy Court rule as a matter of law that the OBWC Claims were not entitled to priority status. The OBWC filed a response, seeking partial summary judgment on the issues of priority. The court granted both the Debtor's and the OBWC's motions in part and denied them in part, determining that certain of the OBWC's Claims were entitled to priority status. A complete list of Class 4 Claims and the amount of each Claim is attached to the Plan as Exhibit C.

Thereafter, the Debtor and OBWC engaged in discussions seeking to resolve the treatment of the OBWC's Claims. The OBWC accepted and agreed to receive in full satisfaction of all of its Claims, including its administrative expense claims, priority unsecured tax claim and general unsecured claim of any nature and kind, a distribution in the amount of \$200,000 on the Effective Date. The Creditors' Committee supports this resolution of the OBWC's claims.

**Class 4 is Impaired under the Plan. The holder of the Allowed Class 4 Claim is entitled to vote to accept or reject the Plan. The Confirmation Order shall be a finding that this is a reasonable settlement of the Class 4 Claims.**

5. Class 5: General Unsecured Claims

Class 3 General Unsecured Claims consist of all general unsecured claims. Subject to the provisions in Article 4 of the Plan, each holder of an Allowed Claim in Class 5 shall receive, in full and final satisfaction and release of their respective Claims one or more Distributions of their Pro Rata Share of all remaining Cash, that is available for Distribution, as determined by the Plan Administrator, for

Distribution to holders of Allowed Class 5 Claims after payment in full of all Administrative Expense Claims, including Professional Fees and U.S. Trustee Fees, Claims in Class 1-4 and fees and costs of the Plan Administrator on the Final Distribution Date.

All General Unsecured Claims having been fully and finally resolved, and the total amount of Allowed General Unsecured Claims is \$5,699,539.36. The estimated recovery for General Unsecured Claims is about 3.5%. A complete list of Class 5 Claims and the amount of each Claim is attached to the Plan as Exhibit D. If any creditor disagrees, they must file an objection with the Bankruptcy Court prior to the bar date to object to the Plan.

**Class 5 is Impaired under the Plan. Holders of Allowed Class 5 Claims are entitled to vote to accept or reject the Plan.**

6. Class 6: Equity Interests and Equity Related Interests

Class 6 consists of all the holders of Interests, including Equity Interests and Equity Related Claims. Equity Related Claims will be subordinated to all Claims and Equity Interests that are senior or equal to any claim or interest represented by the Equity Related Claims. As of the Effective Date, all Equity Interests will be canceled, barred, estopped and extinguished without further action under any applicable agreement, law, regulation, order, or rule. The holders of Equitable Interests will not receive or retain any rights, property, or distributions on account of their Equity Interests or Equity Related Claims under this Plan.

**Class 6 is Impaired under the Plan, and the holders of Allowed Class 6 Equity Interests are deemed to reject the Plan. Consequently, the holders of Allowed Class 6 Equity Interests are not entitled to vote to accept or reject the Plan.**

**D. Means of Implementing of the Plan and execution of the Plan.**

1. Plan Funding

The funds necessary to implement the Plan will derive from assets of the Debtor and those proceeds realized from the sale of the Debtor's assets.

2. Full and Final Satisfaction

All payments and all Distributions under the Plan shall be in full and final satisfaction, settlement, release and discharge of all Claims and Interests, except as otherwise provided under the Plan.

3. Plan Administrator

Pursuant to the terms of the Plan, the Plan Administrator shall be responsible, on behalf of the Estate, for and is authorized to carry out the duties, responsibilities and obligations authorized and directed by the Plan. These duties, responsibilities and obligations may include, but are not limited to, the following: (a) making Distributions under the Plan; (b) administering the Assets of the Estate; (c) preparing and filing of tax returns, on behalf of the Debtor and the Estate, including the right to request a determination of tax liability as set forth in section 505 of the Bankruptcy Code; (d) requesting and receiving of W-9 federal tax forms for any party who is entitled to receive a Distribution on account of a Claim or Equity Interest; (e) payment of post-confirmation fees due to the Office of the United States Trustee; (f) filing of status reports with the Court or other parties-in-interest on a quarterly basis including

a summary of any disbursements or receipts; (g) responding to inquiries of Creditors; and (h) taking all other actions necessary to implement the terms of the Plan.

4. Certain Tax Consequences of the Plan

As the Plan calls for a distribution of liquidated assets, the Debtor does not believe there are any significant tax consequences as a result of the Plan.

In general, holders of Claims will receive Cash, if anything, and should recognize a gain or loss in an amount equal to the difference between (1) the Cash received and (2) their adjusted tax basis in the Claim.

Where gain or loss is recognized by a holder of a Claim, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the holder, whether the Claim constitutes a capital asset in the hands of the holder and how long it has been held, whether the Claim was acquired at a market discount or for the sale of inventory, and whether and to what extent the holder had previously claimed a bad debt deduction.

**THE FOREGOING SUMMARY HAS BEEN PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE RELIED UPON FOR TAX ISSUES. EACH CREDITOR SHOULD CONSIDER THE TAX CONSEQUENCES OF THE PLAN IN LIGHT OF ITS INDIVIDUAL SITUATION AND CONSULT ITS OWN TAX ADVISORS. ALL HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL, AND OTHER TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.**

**E. Provisions Governing Distributions**

1. Distributions

All Distributions under the Plan will be made by the Plan Administrator on the Effective Date or the Final Distribution Date. The Plan Administrator will not be required to give any bond or surety or other security for performance of its duties unless otherwise ordered by the Bankruptcy Court, and in the event the Plan Administrator is otherwise ordered, all costs and expenses of procuring any such bond or surety will be borne by the Estate.

2. Effective Date Distributions

On the Effective Date, and subject to the provisions of the Plan, the Plan Administrator shall pay in full from the Estate assets all Allowed Administrative Expense Claims and all Claims in Classes 2-4.

3. Final Distribution and Final Distribution Date

On the Final Distribution Date, and subject to the provisions of the Plan, the Plan Administrator shall pay in full from the Estate assets all post-Confirmation Professional Fees, any unpaid fees of the U. S. Trustee and the Pro Rata Share to all Allowed Claims in Class 5. The Final Distribution shall be the last Distribution made by the Plan Administrator, and shall occur as soon as practicable. Thereafter, the Debtor's Bankruptcy Case will be closed.

4. Delivery of Distributions



Subject to Bankruptcy Rule 9010, unless otherwise provided in the Plan, all Distributions to holders of Allowed Claims will be made at (i) the addresses set forth in the Debtor's Schedules if no proof of Claim has been filed, (ii) at the addresses reflected in the proofs of Claim filed by the holders of Allowed Claims, or (iii) at the addresses set forth in any written notices of address changes delivered to Debtor or the Plan Administrator after the date of any related proof of Claim. In the event any Distribution to any holder is returned as undeliverable, no Distributions to such holder will be made unless and until the Plan Administrator has been notified of the then current address of such holder, at which time or as soon as reasonably practicable thereafter, such Distributions will be made to the holder without interest. The Plan Administrator shall have no duty to locate such holder who fails to update his mailing address. All Claims for undeliverable Distributions must be made to the Plan Administrator on or before the 180 day anniversary of the Final Distribution Date. After that date, all unclaimed property will be distributed pursuant to the terms of the Plan, and the Claim of any holder with respect to such property will be discharged, enjoined, and forever barred. In which event such funds shall, in the discretion of the Plan Administrator and after consultation with the Creditor Representative, be donated to the Make a Wish Foundation of Northeastern Ohio.

#### **F. Mutual Release**

On the Effective Date, (a) the Debtor, on behalf of its self and its estate, (b) all the Debtor's respective officers, directors, employees, partners, advisors, attorneys, financial advisors, accountants and other Professionals, (c) the Plan Administrator and his agents, attorneys, partners, officers, owners, and all other related parties, (d) the members of, and legal counsel and financial advisors to, the Creditors Committee, including the Creditor Representative, (collectively clauses (a) through (d) being the "Release Parties") shall be deemed to and shall unconditionally and irrevocably release each other from any and all Claims, obligations, suits, judgments, damages, rights, causes of action, and liabilities whatsoever (other than the right to enforce their respective obligations, if any, under this Plan and contracts, instruments, releases, and other agreements and documents delivered pursuant to this Plan), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing on the Effective Date or thereafter arising in law, equity or otherwise that are based in whole or in part upon any act or omission, transaction, event, or other occurrence taking place on or after the Petition Date and before the Effective Date and in any way relating to the Debtor or the Chapter 11 Case or the Plan and the Debtor's agents, advisors, accountants, attorneys, and/or other representatives (including the Debtor's current directors, officers, employees, members and/or Professionals). In furtherance of the foregoing, the Confirmation Order will constitute an injunction permanently enjoining the commencement or prosecution by any person or entity, derivatively or otherwise, of any Claim, demand, debt, liability, cause of action, right, or Interest released and waived pursuant to this Plan against such entities or individuals.

#### **G. Dissolution of the Creditors' Committee and Post-Effective Date Oversight**

On the Effective Date, the Creditors' Committee shall be dissolved, and the members thereof shall be released and discharged from all authority, duties, responsibilities, and obligations related to and arising from and in connection with the Chapter 11 Case prior to the Effective Date. Prior to the Effective Date, the Creditors' Committee will select one of its members to serve as a the Creditor Representative continuing representative to oversee the Final Distribution of the Estate Assets. The Creditor Representative's power shall be limited to consulting with the Plan Administrator and the Debtor, and seeking orders of the Bankruptcy Court to enforce implementation of the Plan and such other rights as are specifically set forth herein. The Creditor Representative may, if Debtor or the Plan Administrator fails to perform any material obligations under the Plan, upon notice and a hearing, seek a Bankruptcy Court order to enforce the provisions of the Plan. The Creditor Representative may also employ legal counsel to

advise the Creditor Representative in regard to the foregoing matter, and such legal counsel shall be paid for with assets of the Estate.

#### **H. Exculpation**

Neither Debtor, the Plan Administrator nor any of the respective officers, directors, employees, members, attorneys, accountants, consultants, and agents (collectively, "Exculpation Parties"), shall (a) have or incur any liability to any person or entity for any act or omission in connection with or arising out of their formulation, implementation, confirmation, consummation or administration of the Plan (including solicitation or rejection thereof) or the treatment or administration of the property to be distributed under the Plan, except if such act or omission is determined in a Final Order to reflect bad faith or constitute gross negligence, willful misconduct or gross negligence, and (b) in all respects, the Exculpation Parties shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan, and (c) shall be fully protected in acting or in refraining from acting in accordance with such advice; provided, however, that nothing contained herein shall relieve any of the foregoing of any liability of any kind or nature related to any act or omission prior to the Petition Date.

Notwithstanding anything in the prior paragraph, the Debtor's bankruptcy proceedings, and in particular the Plan, the exhibits thereto, the Confirmation Order and section 1141 of the Bankruptcy Code, shall not in any way be construed as discharging, releasing, exculpating or relieving the Debtor, or any other party, in any capacity, from any liability with respect to the Pension Plans under any law, governmental policy or regulatory provision. PBGC and the Pension Plans, shall not be enjoined or precluded from enforcing any such liability by any such provisions of the Plan or Confirmation Order.

#### **I. Releases by Recipients of Distributions**

Except as expressly set forth in this Plan or the Confirmation Order, each and every entity receiving a distribution pursuant to this Plan on account of its Allowed Claim or Interest, and consenting (which consent shall be in the be on the Ballot) to such release by voting to accept the Plan, will be deemed to forever release, waive, and discharge all Claims, demands, debts, rights, causes of action, and liabilities in connection with or related to the Debtor, the Chapter 11 Case, or this Plan, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, that are based in whole or in part on any act, omission, or other occurrence taking place on or prior to the Effective Date, against the Debtor, the Debtor's current and former officers, directors and Professionals, current and former members of the Creditors' Committee (in their capacity as members thereof), the Creditor Representative, the Creditors' Committee's Professionals, the Plan Administrator and, as applicable, their respective current and former officers, directors and Professionals (collectively, the "Released Parties") to the fullest extent permitted under applicable law. In addition, the Debtor will be deemed to release any and all such Claims, demands, debts, rights, causes of action, and liabilities against its current officers, directors, Professionals, and officers and directors serving as of the Petition Date. Notwithstanding anything in this Plan or in the releases set forth above to the contrary, nothing herein shall be construed to release, and the Debtor does not hereby release, any rights of the Debtor or the Plan Administrator to enforce this Plan.

#### **J. Executory Contracts and Unexpired Leases**

##### **1. Rejection of Executory Contracts and Unexpired Leases**

On the Effective Date, all executory contracts and unexpired leases, if any, to which the Debtor is a party shall be rejected as of the Effective Date, except executory contracts or unexpired leases which have been previously assumed or rejected.

2. Benefit Plans

All Benefit Plans have been rejected and terminated as of the date of filing of the Plan.

**K. Retention of Jurisdiction of the Bankruptcy Court**

The Bankruptcy Court shall retain jurisdiction of all matters arising under, arising out of, or related to the Chapter 11 Case and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following matters: (a) to determine any motion, adversary proceeding, application, contested matter and other litigated matter pending on or commenced after the Confirmation Date, including, without limitation, any proceeding to revoke a cause of action; (b) to hear and determine all applications under sections 328, 330, 331 and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred by Professionals prior to the Confirmation Date, any and all disputes regarding post-Confirmation Date Professional fees and expenses or Distribution Expenses; (c) to consider Claims and the allowance, classification, priority, compromise, estimation or payment of any Claim; (d) to hear and determine all Claims or controversies arising from the assumption or the rejection of any executory contracts or unexpired leases; (e) 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; (f) to recover all assets of the Estate, wherever and however located; (g) to hear and determine any dispute arising under or in connection with the Plan, including any matter which, pursuant to the terms of the Plan, is to be determined by the Bankruptcy Court; (h) to ensure that distributions to holders of Allowed Claims are accomplished pursuant to the provisions of this Plan; (i) to decide or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters and grant or deny any applications involving the Debtor that may be pending on the Effective Date or that are related to causes of action prosecuted by the Debtor or the Plan Administrator before or after the Effective Date; (j) to enter such orders as may be necessary or appropriate to implement or consummate the provisions of this Plan and all contracts, instruments, releases, and other agreements or documents created in connection with this Plan, the Disclosure Statement, or the Confirmation Order; (k) to resolve any cases, controversies, suits, or disputes that may arise in connection with the consummation, interpretation, or enforcement of this Plan, or any contract, instrument, release, or other agreement or document that is executed or created pursuant thereto, or any entity's rights arising from or obligations incurred in connection with such documents; (l) to, upon appropriate motion by a party in interest, enter an order modifying this Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code or modifying the Disclosure Statement, the Confirmation Order, or any other agreement or document created in connection with this Plan, the Disclosure Statement, or the Confirmation Order in such manner as may be necessary or appropriate to consummate this Plan; (m) to issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any entity with the consummation, implementation, or enforcement of this Plan or the Confirmation Order; (n) to determine any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, or other agreement or document created in connection with this Plan, the Disclosure Statement, or the Confirmation Order; (o) to enter such orders as are necessary or appropriate to enforce and carry out the provisions of the Plan; and (p) to enter a final decree closing the Chapter 11 Case.

**L. Conditions to Effectiveness of the Plan**

1. Conditions

The following are conditions precedent to the Effective Date of the Plan: (a) the Confirmation Order shall be reasonably acceptable in form and substance to the Debtor and the Creditors'

Committee; and (b) the Confirmation Order shall authorize the Debtor and the Plan Administrator to take all actions necessary or appropriate to implement this Plan.

**M. Other Miscellaneous Provisions**

1. Modification of the Plan

The Plan may be amended, modified or supplemented by the Debtor in the manner provided for by section 1127 of the Bankruptcy Code or otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Code may otherwise direct. In addition, after the Confirmation Date, so long as such action does not materially adversely affect the treatment of holders of Claims or Equity Interests under the Plan, the Debtor may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan. Prior to the Effective Date, the Debtor may make appropriate technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or equity Interests.

2. Revocation and Withdrawal of the Plan

The Debtor reserves the right to revoke or withdraw this Plan prior to the Confirmation Date. If the Debtor revokes or withdraws this Plan, or if Confirmation does not occur, then this Plan will be null and void in all respects, and nothing contained in this Plan will: (1) constitute a waiver or release of any Claims by or against, or any Interests in, the Debtor; or (2) prejudice in any manner the rights of the Debtor or any other party in interest.

3. Cram-Down Reservation

If any Impaired class votes to reject the Plan by the requisite statutory majorities provided in sections 1126(c) and 1126(d) of the Bankruptcy Code, as applicable, or as to Class 6 which is deemed to reject the Plan, the Debtor reserves the right to undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code or amend the Plan in accordance with section 13.1 thereof to the extent necessary to obtain entry of the Confirmation Order.

**VI. CONFIRMATION REQUIREMENTS**

**A. Confirmation of Plan – Requirements**

In order for the Plan to be confirmed, the Bankruptcy Code requires, among other things, that the Plan be proposed in good faith, that a proponent disclose specified information concerning payments made or promised to insiders, and that the Plan comply with the applicable provisions of Chapter 11 of the Bankruptcy Code. Section 1129(a) of the Bankruptcy Code also requires that each Impaired Class of Claims accept the Plan (“Minimum Voting Threshold”), unless the Plan can be confirmed as “fair and equitable” over a non-accepting vote of a class under section 1129(b) of the Bankruptcy Code, that confirmation of the Plan is not likely to be followed by the need for further financial reorganization, and that the Plan be fair and equitable with respect to each Class of Claims or Equity Interests which is Impaired under the Plan. The Bankruptcy Court can confirm the Plan if it finds that all of the requirements of section 1129(a) have been met. The Debtor believes the Plan meets all of these required elements. With respect to the so-called “feasibility” test (i.e., because the Debtor’s assets have been sold, the Plan will not be followed by any additional financial reorganization), the Debtor believes that it will be able to fully consummate the Plan.

**B. Conversion as an Alternative to Confirmation**

In the event that the Plan does not satisfy all of the requirements of Section 1129(a) of the Bankruptcy Code because it does not meet the Minimum Voting Threshold, and the Plan is not confirmed under section 1129(b) of the Bankruptcy Code, the Debtor will request that the Court convert this proceeding to one under Chapter 7 of the Bankruptcy Code, and proceed with the orderly liquidation of the Debtors' estate in accordance with the provisions of Chapter 7 of the Bankruptcy Code.

A liquidation of the Debtor's estate under Chapter 7 would be more expensive than a liquidation under Chapter 11 due to the added costs. Therefore, the distribution to creditors will be less, and quite possibly there will be no distribution for general unsecured creditors. Therefore, because the Creditors' Committee would rather not incur another layer of administrative expense by having this Chapter 11 case convert to Chapter 7 case, the Creditors' Committee endorses the Plan.

**C. The Confirmation Hearing; Objection to the Plan**

The Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a confirmation hearing before a plan may be confirmed. The Bankruptcy Court will hold the Confirmation Hearing at the following time and place:

<b>Confirmation Hearing</b>
<b>Date and Time:</b> Commencing at [ _____.m., on _____, 2009]
<b>Place:</b> The United States Bankruptcy Court, Northern District of Ohio (Eastern Division); Frank T. Bow Federal Building; 201 Cleveland Avenue, SW; Courtroom 109C; Canton, Ohio 44702.
<b>Judge:</b> The Honorable Russ Kendig, United States Bankruptcy Judge, Northern District of Ohio.
The Confirmation Hearing may be adjourned from time to time on announcement in the Bankruptcy Court on the scheduled date for the hearing. No further notice will be required to adjourn the hearing.

At the Confirmation Hearing the Bankruptcy Court will determine:

- if the Plan has classified Claims and Interests in a permissible manner;
- if the Plan complies with the technical requirements of Chapter 11 of the Bankruptcy Code;
- if the Debtor has proposed the Plan in good faith; and
- if the disclosures regarding the Plan have been adequate and have included information concerning all payments made or promised in connection with the Plan and the Chapter 11 Case, as well as the identity and affiliations of, and compensation, if any, to be paid to all officers, directors and other insiders.

Any objection to Confirmation of the Plan must be in writing and filed and served as required by the Bankruptcy Court under the order approving this Disclosure Statement. Objections to confirmation of

the Plan are governed by Bankruptcy Rule 9014. At the hearing on the confirmation of the Plan, the Bankruptcy Court will confirm the Plan only if the requirements of the Bankruptcy Code, particularly those set forth in section 1129 of the Bankruptcy Code, have been satisfied.

That order required any objections to the confirmation of the Plan to be served so as to be received on or before [\_\_\_\_\_, 2009 at \_\_\_\_\_.m.,] by the following persons:

- Counsel for the Debtor, Calfee, Halter & Griswold LLP, 1400 KeyBank Center, 800 Superior Avenue, Cleveland, OH, 44114; ATTN: James M. Lawniczak;
- Counsel for the Committee, Buckley King, 1400 Fifth Third Center, 600 Superior Avenue, Cleveland, OH 44114, ATTN: Harry Greenfield; and
- The Office of the United States Trustee for the Northern District of Ohio, H.M. Metzenbaum U. S. Courthouse, 201 Superior Avenue, Suite 441, Cleveland, OH 44114-1240, ATTN: Derrick V. Rippy.

If the Plan is confirmed, its provisions will bind the Estate and any and all entities, including all of the Debtor's creditors and equity holders interest, whether or not the Claim or Interest is Impaired under the Plan and whether or not the creditor or equity holders interest has, either individually or by a Class, voted to accept the Plan.

#### **D. Acceptance Necessary to Confirm the Plan**

At the Confirmation Hearing, the Bankruptcy Court must determine, among other things, whether the Plan has been accepted by the requisite amount and number of Allowed Claims and Allowed Interests in each Impaired class. Under the Bankruptcy Code, a class of creditors or equity security holders is Impaired if its legal, equitable or contractual rights are altered by a proposed plan of reorganization. If a class is not Impaired, each creditor or equity security holder in such unimpaired class is conclusively presumed to have accepted the plan pursuant to section 1126(f) of the Bankruptcy Code. Classes 1 and 2 are not Impaired under the Plan and are, therefore, not entitled to vote on the Plan. Class 3, 4 and 5 are Impaired under the Plan and holders of Allowed Claims or Allowed Interests in such classes are entitled to vote for or against the Joint Plan by completing and returning Ballots mailed to them with this Disclosure Statement in the manner set forth in the Ballots. Class 6 is Impaired under the Plan, but is deemed to reject the Plan, and is not entitled to vote.

An Impaired class of creditors and each holder of a claim in such class will be deemed to have accepted the Plan if the holders of at least two-thirds in amount and more than one-half of those in number of the Allowed Claims in such Impaired class for which complete and timely Ballots have been received have voted for acceptance of the Plan. An Impaired class of equity securities and each holder of an interest in such class will be deemed to have accepted a plan if the plan has been accepted by at least two-thirds in amount of the interests in such class who actually vote on the Plan.

Because the equity interests held by the members of Class 6 is entirely eliminated under the Plan, Class 6 is deemed to have rejected the Plan. The Debtor intends to seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code as to Class 6 and also as to Class 5 if this Class is a non-accepting class. Under section 1129(b), the Bankruptcy Court must determine, among other things, that the Plan does not discriminate unfairly and that it is fair and equitable with respect to each class of Impaired Allowed Claims and Allowed Interests that have not voted to accept the Plan.

## **E. Best Interests of Creditors**

The Bankruptcy Code requires that each holder of an Impaired claim or equity interest either (i) accept the Plan, or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code.

The first step in determining whether this test has been satisfied is to determine the dollar amount that would be generated from the liquidation of the Debtor's assets and properties in the context of a chapter 7 liquidation case. The gross amount of cash that would be available for satisfaction of claims and equity interests would be the sum consisting of the proceeds resulting from the disposition of the unencumbered assets and properties of the Debtor, augmented by the unencumbered cash held by the Debtor at the time of the commencement of the liquidation cases.

The next step is to reduce that gross amount by the costs and expenses of liquidation and by such additional administrative and priority claims that might result from the use of chapter 7 for the purposes of liquidation. Any remaining net cash would be allocated to creditors and shareholders in strict priority in accordance with section 726 of the Bankruptcy Code. Finally, the present value of such allocations (taking into account the time necessary to accomplish the liquidation) are compared to the value of the property that is proposed to be distributed under the Plan on the Effective Date.

The Debtor's cost of liquidation under chapter 7 would include 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. Other liquidation costs include the expenses incurred during the Chapter 11 Case and subsequently allowed in the chapter 7 case, such as compensation for attorneys, financial advisors, appraisers, accountants and other professionals for the Debtor, and the Committee, and costs and expenses of members of the Committee, as well as other compensation claims.

The foregoing types of claims, costs, expenses, fees and such other claims that may arise in a liquidation case would be paid in full from the liquidation proceeds before the balance of those proceeds would be made available to pay prepetition priority and unsecured Claims.

The Debtor submits that each Impaired Class will receive under the Plan a recovery at least equal in value to the recovery such Class would receive pursuant to a liquidation of the Debtor under chapter 7 of the Bankruptcy Code, and almost certainly more due to the statutory fees to which a chapter 7 trustee is entitled for administering assets.

After consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors in the Chapter 11 Case, including the chapter 7 trustee's investment of substantial time and resources to investigate the facts underlying the multitude of Claims filed against the Estate, the Debtor has determined that confirmation of the Plan will provide each holder of an Allowed Claim with a recovery that is not less than such holder would receive pursuant to liquidation of the Debtor under chapter 7.

The Debtor also submits that the value of any distributions to each Class of Allowed Claims in a chapter 7 case would be less than the value of distributions under the Plan because such distributions in a chapter 7 case would not occur for a substantial period of time and additional costs would be incurred. In the event litigation is necessary to resolve claims asserted in a chapter 7 case, the delay could be prolonged and administrative expenses increased.

**F. Feasibility**

Section 1129(a)(11) of the Bankruptcy Code provides that a chapter 11 plan may be confirmed only if the Court finds that such plan is feasible. A feasible plan is one which will not lead to a need for further reorganization or liquidation of the debtor. Since the Plan provides for the complete liquidation of the Debtor, the Bankruptcy Court will find that the Plan is feasible if it determines that the Debtor will be able to satisfy the conditions precedent to the Effective Date and otherwise have sufficient funds to meet its post-Confirmation Date obligations to pay for the costs of administering and fully consummating the Plan and closing the Chapter 11 Case. The Debtor submits that the Plan satisfies the financial feasibility requirement imposed by the Bankruptcy Code.

**G. Confirmation of the Plan**

In the event the Bankruptcy Court determines that all of the requirements for the confirmation of the Plan are satisfied, the Bankruptcy Court will issue the Confirmation Order confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

**VII. CONCLUSION AND RECOMMENDATION**

The Debtor believes that confirmation and implementation of the Plan is preferable to and in the best interests of all holders of Claims and urges all holders of Impaired Claims in Classes entitled to vote on the Plan to vote to accept the Plan and to evidence such acceptance by returning their Ballots so that they will be received on or before [\_\_\_\_\_, 2009]. The Committee also recommends that you vote to accept the Plan. In the event that the Plan is not accepted, the Debtor will request that the Court convert this proceeding to one under Chapter 7 of the Bankruptcy Code, and proceed with the orderly liquidation of the Debtors' estate in accordance with the provisions of Chapter 7 of the Bankruptcy Code. However, a liquidation of the Debtor's estate under Chapter 7 would be more expensive than a liquidation under Chapter 11; therefore, all Claimants entitled to vote are encouraged to vote in favor of the Plan.

**Dated:** June 22, 2009

/s/ James M. Lawniczak  
James M. Lawniczak (0041836)  
Nathan A. Wheatley (0072192)  
Tiiara N.A. Patton (0081912)  
CALFEE, HALTER & GRISWOLD LLP  
1400 KeyBank Center  
800 Superior Avenue  
Cleveland, Ohio 44114  
Telephone: (216) 622-8200  
Facsimile: (216) 241-0816  
Email: [jlawniczak@calfee.com](mailto:jlawniczak@calfee.com)  
[nwheatley@calfee.com](mailto:nwheatley@calfee.com)  
[tpatton@calfee.com](mailto:tpatton@calfee.com)

ATTORNEYS FOR DEBTOR  
AND DEBTOR IN POSSESSION