

CVD EQUIPMENT CORP  
Form 10-K  
March 07, 2011

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

Form 10-K

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.

For the fiscal year ended December 31, 2010

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.

For the transition period from \_\_\_\_ to \_\_\_\_

Commission file number: 1-16525

CVD EQUIPMENT CORPORATION  
(Exact name of registrant as specified in its charter)

New York  
(State or Other Jurisdiction of  
Incorporation or Organization)

11-2621692  
(I.R.S. Employer Identification No.)

1860 Smithtown Avenue  
Ronkonkoma, New York 11779  
(Address including zip code of registrant's Principal Executive Offices)

(631) 981-7081  
(Registrant's Telephone Number, Including Area Code)

Securities registered under Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Common Stock, Par value \$0.01	NASDAQ Capital Market

Securities registered under Section 12(g) of the Act:  
None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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

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Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data file required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months/(or for such shorter period that the registrant was required to submit and post such files)..

Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Yes  No

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

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter: \$8,178,742 at June 30, 2010

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date: 4,848,325 shares of Common Stock, \$0.01 par value at March 04, 2011.

DOCUMENTS INCORPORATED BY REFERENCE None.

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PART I

INFORMATION CONCERNING FORWARD-LOOKING STATEMENTS

Except for historical information contained herein, this Annual Report on Form 10-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These statements involve known and unknown risks and uncertainties that may cause our actual results or outcomes to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. These forward-looking statements are based on various factors and are derived utilizing numerous important assumptions and other important factors that could cause actual results to differ materially from those in the forward-looking statements. Important assumptions and other factors that could cause actual results to differ materially from those in the forward-looking statements, include, but are not limited to: competition in our existing and potential future product lines of business; our ability to obtain financing on acceptable terms if and when needed; uncertainty as to our future profitability, uncertainty as to the future profitability of acquired businesses or product lines, uncertainty as to any future expansion of the Company. Other factors and assumptions not identified above were also involved in the derivation of these forward-looking statements and the failure of such assumptions to be realized as well as other factors may also cause actual results to differ materially from those projected. We assume no obligation to update these forward-looking statements to reflect actual results, changes in assumptions, or changes in other factors affecting such forward-looking statements.

Item 1. Description of Business.

The use of the words “we,” “us” or “our” refers to CVD Equipment Corporation, a New York corporation incorporated on October 13, 1982, and its subsidiary, except where the context otherwise requires.

We design, develop and manufacture both standard and custom state-of-the-art equipment and process solutions used to develop and manufacture advanced solar, nano electronic components, materials and coatings for research and industrial applications, with the focus on enabling tomorrow’s technologies™. We offer a broad range of chemical vapor deposition, gas control and other equipment that is used by our customers to research, design and manufacture semiconductors, solar cells, smart glass, carbon nanotubes, nanowires, LEDs, MEMS and industrial coatings, as well as equipment for surface mounting of components onto printed circuit boards. Through our Application Laboratory, we can provide process development support and process startup assistance. Our proprietary products are generally customized to meet the particular specifications of individual customers and to accelerate the commercialization of their proprietary intellectual property.

Based on more than 28 years of experience, we use our engineering, manufacturing and process development to transform new applications into leading-edge manufacturing solutions. This enables university, research and industrial scientists at the cutting edge of technology to develop next generation solar, nano, LEDs, semiconductors and other electronic components. We also develop and manufacture research and production equipment based on our proprietary designs.

We have built a significant library of design expertise, know-how and innovative solutions to assist our customers in developing these intricate processes and to accelerate their commercialization. This library of solutions, along with our vertically integrated manufacturing facilities, allows us to provide superior design, process and manufacturing solutions to our customers on a cost effective basis.

Part of our strategy is to target opportunities in the research and development and production equipment market, with a focus on higher-growth applications such as solar and smart glass coatings, carbon nanotubes, nanowires, grapheme, MEMS and LEDs. To expand our penetration into these growth markets, we have a line of proprietary standard products and systems. Historically, we manufactured products on a custom one-at-a-time basis to meet an individual customer's specific research requirements. Our proprietary systems leverage the technological expertise that we have developed through designing these custom systems onto a standardized basic core. This core is easily adapted through a broad array of available add-on options to meet the diverse product and budgetary requirements of the research community. By manufacturing the basic core of these systems in higher volumes, we are able to reduce both the cost and delivery time for our systems. These systems, which we market and sell under the "EasyTube"™ product line, are sold to researchers at universities, research laboratories, and startup companies in the United States and throughout the world.

Sales of our proprietary standard, custom systems and process solutions have been driven by building on the success of our installed customer base, which includes several Fortune 500 companies. Historically, revenues have grown primarily through sales to existing customers with additional capacity needs or new requirements, as well as to new customers. However, with the proprietary solutions and our expanded focus on "accelerating the commercialization of tomorrow's technologies" we are developing an additional new customer base. We have generally gained new customers through word of mouth, the movement of personnel from one company to another; limited print advertising and trade show attendance. We are now also gaining new customers by awareness of our company in the marketplace with results from our Application Laboratory, partnerships with startup companies, increased participation in trade shows and expanded internet advertising.

The core competencies we have developed in equipment and software design, as well as in systems manufacturing and process solutions, are used to engineer our finished products and to accelerate the commercialization path of our customer base. Our proprietary Windows-based, real-time, software application allows for rapid configuration, and provides our customers with powerful tools to understand, optimize and repeatedly control their processes. Our vertically integrated structure allows us to control the manufacturing process, from bringing raw metal and components into our manufacturing facilities to shipping out finished products. These factors significantly reduce cost, improve quality and reduce the time it takes from customer order to shipment of our products. Our Application Laboratory allows selected customers to bring up their process tools in our Application Laboratory and to work together with our scientists and engineers to optimize process performance.

We conduct our operations through three divisions: (1) CVD, which includes our First Nano product line (“CVD/First Nano”); (2) Stainless Design Concept (“SDC”); and (3) Conceptronic, (“Conceptronic”). Each division operates on a day-to-day basis with its own operating manager while product development, sales and administration are managed at the corporate level.

#### Operating Divisions

CVD/First Nano is a supplier of state-of-the-art chemical vapor deposition systems for use in the research, development and manufacturing of semiconductors, LEDs, carbon nanotubes, nanowires, solar cells and a number of industrial applications. We utilize our expertise in the design and manufacture of chemical vapor deposition systems to work with laboratory scientists to bring state-of-the-art processes from the research laboratory into production, as well as to provide production equipment and process solutions based on our designs. CVD/First Nano also operates our Application Laboratory in a separate building where our personnel interact effectively with the scientists and engineers of our customer base.

SDC designs and manufactures ultra-high purity gas and chemical delivery control systems for state-of-the-art semiconductor fabrication processes, solar cells, LEDs, carbon nanotubes, nanowires, and a number of industrial applications. Our SDC products are sold on a stand-alone basis, as well as together with our CVD/First Nano systems. SDC operates out of a 22,000 square foot facility fitted with Class 10 and Class 100 clean room manufacturing space located in Saugerties, New York.

Conceptronic designs and manufactures reflow ovens and rework stations for the printed circuit board assembly and semi-conductor packaging industries. Our equipment is designed to melt solder in a controlled process to form superior connections between components. This, in turn, creates complete electronic circuits for computers and telecommunication systems, as well as for the automotive and defense industries. To address pricing pressure in what is now a mature industry for standardized reflow ovens and the current economic downturn, we have begun to offer customized products for complex heating and drying applications.

#### Principal Products

Chemical Vapor Deposition - A process which passes a gaseous compound over a target material surface that is heated to such a degree that the compound decomposes and deposits a desired layer onto substrate material. The process is accomplished by combining appropriate gases in a reaction chamber, of the kind produced by the Company, at elevated temperatures (typically 150-1,800 degrees Celsius). Our Chemical Vapor Deposition systems are complete and include all necessary instrumentation, subsystems and components and include state-of-the-art process control software. We provide both standard and specifically engineered products for particular customer applications. Some of the standard systems we offer are for Silicon, Silicon-Germanium, Silicon Dioxide, Silicon Nitride, Polysilicon, Liquid Phase Epitaxial, Metalorganic Chemical Vapor Deposition, Carbon Nanotubes, Graphene Nanowires, Solar Cell research and Solar material quality control.

Our Chemical Vapor Deposition systems are available in a variety of models that can be used in laboratory research and production. All models are offered with total system automation, a microprocessor control system by which the user can measure, predict and regulate gas flow, temperature, pressure and chemical reaction rates, thus controlling the process in order to enhance the quality of the materials produced. Our standard microprocessor control system is extremely versatile and capable of supporting the complete product line and most custom system requirements. These Chemical Vapor Deposition systems are typically priced between \$60,000 and \$500,000.

Rapid Thermal Processing (“RTP”) - Used to heat semiconductor materials to elevated temperatures of 1,000 degrees Celsius at rapid rates of up to 200 degrees Celsius per second. Our RTP systems are offered for implant activation, oxidation, silicide formation and many other processes. We offer systems that can operate both at atmospheric or reduced pressures. Our RTP systems are priced up to \$600,000.

Annealing and Diffusion Furnaces - Used for diffusion, oxidation, implant anneal, solder reflow, solar cell manufacturing and other processes. The systems are normally operated at atmospheric and/or reduced pressure with gaseous atmospheres related to the process. An optional feature of the system allows for the heating element to be moved away from the process chamber allowing the wafers to rapidly cool or be heated in a controlled environment. Our cascade temperature control system enables more precise control of the wafers. The systems are equipped with an automatic process controller, permitting automatic process sequencing and monitoring with safety alarm provisions. Our annealing and diffusion furnace systems are priced up to \$900,000.

Ultra-high Purity Gas and Liquid Control Systems - Our standard and custom designed gas and liquid control systems, which encompass, gas cylinder storage cabinets, custom gas and chemical delivery systems, gas and liquid valve manifold boxes and gas isolation boxes, provide safe storage and handling of pressurized gases and chemicals. Our system design allows for automatic or manual control from both a local and remote location. A customer order often includes multiple systems and can total up to \$1,000,000.

Quartz ware - We provide standard and custom fabricated quartz ware used in our equipment and other customer tools. We also provide repair and replacement of existing quartz ware.

Convection Furnaces – We provide proprietary reflow ovens used by the printed circuit board assembly and semiconductor packaging industries.

Reflow Furnaces and Rework Stations – We provide standard and custom systems for the printed circuit board and surface mount technology industries. Our equipment is designed to melt solder in a controlled process to form superior connections between components, creating complete electronic circuits for computers and telecommunication systems, as well as for the automotive and defense industries.

## Markets and Marketing

Due to the highly technical nature of our products, we believe it is essential to contact customers directly through our sales personnel and through a network of domestic and international independent sale representatives and distributors specializing in the type of equipment we sell. Our primary marketing activities include direct sales contacts, participation in trade shows and our internet websites. We are focusing our efforts on being in the top listings on many search engines in order to increase the number of “hits” to our websites.

## Customers

We are continuing to work on expanding our product offerings. Many of these products are used in research and in production applications. We sell our products primarily to electronic component manufacturers, institutions involved in electronic component research (such as universities, government and industrial laboratories) and to industries such as aerospace that require specialized coatings. We have both an international and domestic installed customer base of approximately 200 customers to whom we have sold systems within the last three years.

For the twelve months ended December 31, 2010, approximately 37% of our revenues were generated from foreign exports compared to 14% for the twelve months ended December 31, 2009. Revenue to a single customer in any one year can exceed 10.0% of our total sales; however, we are not dependent on any single customer. In fiscal year 2010, one customer represented 6.5% and another customer represented 5.5% of our annual revenues. In fiscal year 2009, one customer represented 9.2%, another customer represented 8.8% and each of two customers represented 5.3% and 5.2% of our annual revenues. None of these customers were the same from year to year.

## Warranties

We normally warrant our equipment for a period of twelve to eighteen months after shipment, depending on the product, and pass along any warranties from original manufacturers of components used in our products. We provide for our own equipment servicing with in-house field service personnel. Warranty costs, including those incurred in fiscal years 2009 and 2008, have been historically insignificant and expensed as incurred.

## Competition

We are subject to intense competition. We are aware of other competitors that offer a substantial number of products and services comparable to ours. Many of our competitors (including customers who may elect to manufacture systems for internal use) have financial, marketing and other resources greater than ours. To date, we believe that each one of our three operating divisions has been able to compete in markets that include these competitors, primarily on the basis of technical performance, quality, delivery and price.

CVD/First Nano competes primarily with in-house design and engineering personnel at research and university laboratories with the capacity to design and build their own equipment internally. Due to budgetary and funding constraints, many of these customers are extremely price sensitive. CVD/First Nano also competes with companies that have substantially greater financial, marketing and other resources to develop new products and support customers worldwide, as well as smaller competitors. We believe that our systems are among the most advanced available for the targeted market space.

SDC competes with companies that are larger than our company and have substantially greater financial, marketing and other resources than we do. We believe that SDC's gas management and chemical delivery control systems are among the most advanced available. We further believe that SDC is differentiated from our competitors through our intimate understanding of how the systems in which our products are incorporated are actually used in field applications. We have gained this understanding as a result of having designed and built complex process gas systems for CVD/First Nano as well as for a number of the world's leading semiconductor, solar manufacturers, research laboratories and universities.

Conceptronic's proprietary reflow ovens and rework stations are used by the printed circuit board assembly and semiconductor packaging industries. Conceptronic also offers customized products for complex applications within the printed circuit board and other industries that use conveyor-type ovens in heating and drying applications. Our in-house design and engineering personnel develop leading edge technology for sale at competitive prices. Conceptronic competes with companies that are larger than our company and have substantially greater financial, marketing and other resources than we do. We believe that our reflow ovens and rework stations are among the most advanced available having leveraged our experience in designing and building customized products for our customers.

#### Sources of Supply

We do not manufacture many components used in producing our products. Most of these components are purchased from unrelated suppliers. We have some OEM supply contracts covering a selection of these components, although we are not dependent on a principal or major supplier and alternate suppliers are available. Subject to lead times, the components and raw materials we use in manufacturing our products are readily obtainable.

We have a fully-equipped machine shop that we use to fabricate in-house most of the metal components, including the most complex designed parts of our equipment. Our investment in (CNC) machines for our machine shop has increased our efficiencies while significantly reducing costs in production. Similarly, our quartz fabrication capability is sufficient to meet our quartz ware needs.

Materials procured from the outside and/or manufactured internally undergo a rigorous quality control process to ensure that the parts meet or exceed our requirements and those of our customers. Upon final assembly, all equipment undergoes a final series of complete testing to ensure maximum product performance.

#### Backlog

As of December 31, 2010 our order backlog was approximately \$9,944,000 compared to approximately \$2,549,000 at December 31, 2009, an increase of \$7,395,000 or 290%. The increase is primarily attributed to the increase in order levels received during the second half of 2010. The timing for completion of the backlog varies depending on the product mix and can be as long as two years. Included in the backlog are all accepted purchase orders with the exception of those that are included in our percentage-of-completion. Order backlog is usually a reasonable management tool to indicate expected revenues and projected profits, however it does not provide an assurance of future achievement or profits as order cancellations or delays are possible.





## Intellectual Property

Our success is dependent in part on our technology and other proprietary rights. We have historically protected our proprietary information and intellectual property such as design specifications, blueprints, technical processes and employee know-how through the use of non-disclosure agreements. In addition, we began to file for patent protection and began to use trademarks for proprietary novel solutions that have the potential to become standard products and can be sold to multiple customers. We also maintain and/or assert rights in certain trademarks relating to certain of our products and product lines, and claim copyright protection for certain proprietary software and documentation.

While patent, copyright and trademark protection for our intellectual property are important to different degrees for our various products and solutions, we believe our future success in highly dynamic markets is most dependent upon the technical competence and creative skills of our personnel and our ability to accelerate the commercialization of next generation intellectual properties. We attempt to protect our trade secrets and other proprietary information through non-disclosure agreements with our customers, suppliers, employees and consultants through other security measures.

## Research and Development

The university research community is at the forefront of nanotechnology research, and we are focused on providing state-of-the-art systems to this market that will help bridge the gap between pioneering research and marketable products. Our Application Laboratory, together with a number of leading universities and startup companies, with whom we partner from time to time, conducts cutting-edge research on the growth of carbon nanotubes, graphene and nanowires as well as on selected solar cell manufacturing processes and smart glass coating processes. The results of this research could have far reaching implications concerning the use and manufacture of carbon nanotubes, graphene and nanowires, solar cell and glass coatings for many markets. Our intention is that together we will leverage our collective expertise in this field, which will allow us to capitalize on commercial opportunities in the future. This relationship has thus far produced leading edge results, including what we believe are the tallest carbon nanotube arrays yet developed.

The amount spent on research and development was approximately \$712,000 for the year ended December 31, 2010 and \$757,000 for the year ending December 31, 2009.

## Government Regulation

We are subject to a variety of federal, state and local government regulations, such as environmental, labor and export control. We believe that we have obtained all necessary permits to operate our business and that we are in material compliance with all laws and regulations applicable to us.

We are not aware of any government regulations or requirements necessary for the sale of our products, other than certain approvals or permits which may be required for us to export certain of our products to certain foreign countries

## Insurance

Some of our products are used in connection with explosive, flammable, corrosive and toxic gases. There are potential exposures to personal injury as well as property damage, particularly if operated without regard to the design limits of the systems and components. Management reviews its insurance coverage with our insurance agent on an annual basis. We have the following types of insurance coverage:

- Product liability
- Property and contents
- General liability
- Directors and officers
- Transportation
- Business auto
- General Umbrella
- Workers compensation
- Employee benefits liability

## Employees

At December 31, 2010, we had 131 employees, 128 of which were full time personnel and 3 of which were part time. We had 69 people in manufacturing, 32 in engineering (including research and development and efforts related to product improvement) 4 in field service, 6 in sales and marketing and 20 in general management and administration.

## Item 2. Description of Property.

We maintain our headquarters at 1860 Smithtown Avenue, Ronkonkoma, New York, where we own a 50,000 square foot manufacturing facility which we purchased in March, 2002 for \$2,161,875. In addition we incurred \$1,283,077 for renovations. We financed \$2,700,000 of the total purchase price and the costs associated with the renovation. The financing consisted of a loan secured by a mortgage held by GE Capital Public Finance Inc. subject to an installment sale agreement with the Town of Islip Industrial Development Agency. Payments are based upon a 15 year amortization schedule. Interest is fixed at a rate of 5.67%. Our CVD/First Nano and Conceptronic divisions operate out of this facility.

Our SDC division operates out of a 22,000 square foot manufacturing facility situated on five acres of land which we purchased in December 1998 and is located at 1117 Kings Highway, Saugerties, New York. The property was purchased from Kidco Realty Corp. The purchase price for the property was \$1,400,000. We financed \$900,000 of the purchase price. On June 30, 2008, we entered into a consolidation, Extension and Modification Agreement and Consolidated and Restated Mortgage note each with Capital One, N.A. The agreement consolidated various notes and mortgages into a single note in the principal sum of \$805,000 of which approximately \$17,000 represented additional borrowings incurred by the Company. Principal and interest payments are made in 119 equal consecutive monthly installments of \$5,903.27, with a final balloon payment being due on July 1, 2018 equal to the remaining unpaid principal on the maturity date. The principal sum bears interest at a fixed annual rate of 6.2%.

The Application Laboratory operates out of a 13,300 square foot facility located at 979 Marconi Avenue, Ronkonkoma, NY 11779 that was purchased from HPG Realty Co., LLC. The total purchase price for the property was \$2,015,000. We financed approximately \$1,500,000 of the purchase price. The financing consists of two loans secured by mortgages, both of which are held by Capital One, N.A. Payments upon each of the mortgages are based upon a 20-year amortization schedule, with a 10-year balloon. Interest on the \$1 million mortgage is fixed at a rate of 5.67% for 10 years. Interest on the \$500,000 mortgage is fixed at a rate of 3.67% for the first four years and will be adjusted for the 6 year period beginning March 1, 2012 to 200 basis points above the weekly average yield on U.S. Treasury Securities adjusted to a constant maturity of 6 years, until maturity on March 1, 2018.

Item 3. Legal Proceedings.

On September 18, 2007 a settlement was reached between us and PrecisionFlow Technologies, Inc. of pending litigation. Under the terms of the settlement, all claims and counterclaims asserted by the parties in previously filed lawsuits were discontinued in consideration of which we were to receive payments totaling \$541,600 to be paid over a specific timetable as defined. As of December 31, 2010, we have been paid in full.

In June 2008, we commenced an action against a third party in the Supreme Court of the State of New York, Suffolk County. By that action, we sought to recover \$154,161 for manufacturing engineering services and system fabrication; spare parts; and reimbursable expenses. Subsequently, the defendant removed the action to the United States District Court for the Eastern District of New York. Once in Federal Court, the customer asserted various counterclaims. A settlement of the actions was agreed to in late 2009 and executed in February 2010.

On January 26, 2010 we commenced an action against Taiwan Glass Industrial Corp. and Mizuho Corporate Bank in the United States District Court for the Southern District of New York. By that action, we seek monetary damages (\$5,816,000) for breach of contract against Taiwan Glass Industrial Corp., and against Mizuho Corporate Bank for failing to pay the second installment on a letter of credit issued by Mizuho Corporate Bank on behalf of Taiwan Glass Industrial Corp. calling for payment of drafts presented upon shipment of the equipment. The contract was breached by the customer's failure to accept and pay for the specially manufactured equipment shipped on November 27, 2009. Under the terms of the contract, we believe the customer improperly rejected the equipment. Mizuho Corporate Bank and Taiwan Glass Industrial Corp. have denied the allegations and Taiwan Glass Industrial Corp. has claimed that we must pay them \$3,564,000 for alleged breach of contract. We are vigorously pursuing our claims.

Item 4. (Removed and Reserved)

## PART II

## Item 5. Market for Registrant's Common Equity and Related Stockholder Matters.

The following table sets forth, for the periods indicated, the high and low closing prices of our common stock on The NASDAQ Capital Market.

	High	Low
Year Ended December 31, 2010:		
1st Quarter.....	\$4.50	\$3.35
2nd Quarter.....	3.95	3.10
3rd Quarter.....	4.69	3.01
4th Quarter.....	9.02	6.00

	High	Low
Year Ended December 31, 2009:		
1st Quarter.....	\$3.49	\$2.35
2nd Quarter.....	4.42	2.66
3rd Quarter.....	4.34	3.15
4th Quarter.....	4.95	3.32

As of March 1, 2011, there were approximately 68 holders of record and approximately 1,226 beneficial owners of our common stock, and the closing sales price of our common stock as reported on the NASDAQ Capital Market was \$10.70.

## Dividend Policy

We have never paid dividends on our common stock and we do not anticipate paying dividends on common stock at the present time. We currently intend to retain earnings, if any, for use in our business. There can be no assurance that we will ever pay dividends on our common stock. Our dividend policy with respect to our common stock is within the discretion of the Board of Directors and its policy with respect to dividends in the future will depend on numerous factors, including earnings, financial requirements and general business conditions.

Under applicable New York law, we would not be permitted to declare and pay dividends if we were insolvent, or would become insolvent by payment of dividends, or if our net assets remaining after payment of dividends would be less than our stated capital.

Equity Compensation Plan Information

The following table provides information about shares of our common stock that may be issued upon the exercise of options under all of our existing compensation plans as of December 31, 2010.

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights(1)	Weighted-average exercise price of outstanding options, warrants and rights(2)	Number of securities remaining available for future issuance
Equity compensation plans approved by security holders	391,550	\$ 4.01	803,875
Total	391,550	\$4.01	803,875

(1) Reflects aggregate options and restricted stock awards outstanding under our 1989 Key Employee Stock Option Plan, 2001 Stock Option Plan and 2007 Share Incentive Plan.

(2) Calculation is exclusive of the value of any unvested restricted stock awards.

Recent Sales Of Unregistered Securities

During the year ended December 31, 2010, we granted to our five independent directors an aggregate of 16,500 shares of restricted common stock pursuant to our 2007 Share Incentive Plan with an aggregate fair value of \$70,125.

Issuer Purchases Of Equity Securities

None.

Item 6. Selected Financial Data.

Not applicable.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations .

You should read the following discussion and analysis in conjunction with our financial statements and related notes contained elsewhere in this report. This discussion contains forward-looking statements that involve risks, uncertainties and assumptions. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of a variety of factors discussed in this report and those discussed in other documents we file with the SEC. In light of these risks, uncertainties and assumptions, readers are cautioned not to place undue reliance on such forward-looking statements. These forward-looking statements represent beliefs and assumptions only as of the date of this report. While we may elect to update forward-looking statements at some point in the future, we specifically disclaim any obligation to do so, even if our estimates change. Past performance does not guaranty future results.

We design, develop and manufacture standard and custom state-of-the-art equipment and process solutions used to develop and manufacture solar, nano, advanced electronic components, materials and coatings for research and industrial applications with the focus on enabling tomorrow's technologies<sup>TM</sup>. We offer a broad range of chemical vapor deposition, gas control and other equipment that is used by our customers to research, design and manufacture semi-conductors, solar cells, smart glass, carbon nanotubes, nanowires, LEDs, MEMS, and industrial coatings, as well as equipment for surface mounting of components onto printed circuit boards. Through our Application Laboratory, we can provide process development support and process startup assistance. Our proprietary products are generally customized to meet the particular specifications of individual customers and to accelerate the commercialization of their proprietary intellectual property.

Based on more than 28 years of experience, we use our engineering, manufacturing and process development to transform new applications into leading-edge manufacturing solutions. This enables university, research and industrial scientists at the cutting edge of technology to develop next generation solar, nano, LEDs, semiconductors and other electronic components. We also develop and manufacture research and production equipment based on our proprietary designs. We have built a significant library of design expertise, know-how and innovative solutions to assist our customers in developing these intricate processes and to accelerate their commercialization of chemically deposited materials. This library of solutions, along with our vertically integrated manufacturing facilities, allows us to provide superior design, process and manufacturing solutions to our customers on a cost effective basis.

## Results of Operations

## Revenue

Revenue for the year ended December 31, 2010 was approximately \$16,258,000 compared to approximately \$10,575,000 for the year ended December 31, 2009. Annual revenue from the CVD/First Nano division increased by approximately \$4,440,000 or 64.3% to \$12,370,000 which represents 76.1% of our total revenue during the year ended December 31, 2010 compared to \$7,530,000 or 71.2% of our total revenue for the prior fiscal year. Annual revenue generated from the sale of our CVD products increased by 72% to approximately \$6,597,000 and revenue generated from our First Nano™ EasyTube™ product line increased by 57% to approximately \$5,773,000. We continue to experience the increased demand for energy savings, energy generation materials and products needed to address rising energy and environmental costs. This creates a growing need for manufacturing solutions using nanotechnology and thin film coatings on glass, wafers and other substrates or materials. This contrasts with the year ended December 31, 2009 when we experienced delays or reductions in capital expenditures by potential customers due to unfavorable economic conditions and (ii) a significant contract from a CVD division customer being breached during the fourth quarter of 2009 that was previously accounted for under the percentage of completion contract method of revenue recognition.

The accounting treatment applied to the terminated contract was to unwind the contract since, under generally accepted accounting principles in the United States of America, we could not recognize the revenue from this contract. By unwinding the contract, we recorded the sum of the retained initial payment (\$3,564,000) and the estimated lower of cost or market basis of the returned equipment (\$1,150,000) as an offset to the production costs of the specially manufactured equipment (\$4,027,000) accumulated through the date the contract was breached. The effect of unwinding the contract in the fourth quarter of 2009 was to reduce CVD division revenue by \$3,564,000, and our total cost of revenue by \$4,714,000.

Presented below are tables which summarize our revenue, cost of sales, gross profit and gross profit percent for the CVD Division for the year ended December 31, 2010 as compared to revenue, cost of sales, gross profit and gross profit percent for the CVD Division on a pro forma basis if we were permitted to recognize the revenue under the breached contract in the fourth quarter of 2009:

CVD Equipment Corporation  
Year Ended December 31, 2010

	Revenue	Cost of Sales	Gross Profit	Gross Profit %
As reported - 2010	\$16,258,000	\$10,378,000	\$5,880,000	36.2
Pro forma – 2009	\$14,139,000	\$10,470,000	\$3,669,000	25.9

CVD Division  
Year Ended December 31, 2010

	Revenue	Cost of Sales	Gross Profit	Gross Profit %
	\$12,370,000	\$7,858,000	\$4,512,000	36.5



As reported –  
2010

Pro forma – 2009	\$11,094,000	\$8,191,000	\$2,903,000	26.2
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The table below reconciles revenue, cost of sales, gross profit and gross profit percent for the Company and the CVD Division on a pro forma basis if we were permitted to recognize the revenue under the breached contract in the fourth quarter of 2009.

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CVD Equipment Corporation  
Year Ended December 31, 2009

	Revenue	Cost of Sales	Gross Profit	Gross Profit %
As reported – contract terminated	\$10,575,000	\$5,756,000	\$4,820,000	45.6
Add: Revenue recognition –TG contract	\$3,564,000	\$3,564,000		
Add: Net realizable value of returned equipment		1,150,000		
Pro forma-contract not terminated	\$14,139,000	\$10,470,000	\$3,669,000	25.9

CVD Division  
Year Ended December 31, 2009

	Revenue	Cost of Sales	Gross Profit	Gross Profit %
As reported-contract terminated	\$7,530,000	\$3,477,000	\$4,053,000	53.8
Add: Revenue recognition – TG contract	\$3,564,000	\$3,564,000		
Add: net realizable value of returned equipment		\$1,150,000		
Pro forma-contract not terminated	\$11,094,000	\$8,191,000	\$2,903,000	26.2

Revenue from outside customers for the SDC division increased by approximately 21.4% or \$463,000 to \$2,629,000 representing 16.2% of our total revenue during the year ended December 31, 2010, compared to \$2,166,000, or 20.5% of our total revenue for the prior fiscal year as SDC also experienced increased demand.

Revenue from outside customers for the Conceptronic division increased by approximately \$366,000, or 41% to \$1,259,000 for the year ended December 31, 2010 compared to \$893,000 during the year ended December 31, 2009. The revenue generated by the Conceptronic division represents 7.7% of our total revenue during the year ended December 31, 2010 compared to the 8.4% of our total revenue that it represented during the year ended December 31, 2009.

Gross Profit

Overall gross profit amounted to approximately \$5,880,000 with a gross profit margin of 36.2% compared to the gross profit of \$4,820,000 with a gross profit margin of 45.6% for the year ended December 31, 2009. The termination of a major contract in 2009 had a positive impact on our overall gross profit margin of approximately 19.7% for last year.

Had the contract not been breached in December 2009, the overall gross profit for 2009 would have amounted to \$3,669,000 with a gross profit margin of 25.9%. In addition, fixed costs have a reduced impact on increased revenue. The CVD/First Nano division generated a gross profit margin of 36.5% for the year ended December 31, 2010, compared to a gross profit margin of 26.2% for the year ended December 31, 2009, had the contract not been breached. As a result of the contract breach, the gross profit margin of the CVD/First Nano division increased to 53.8% for the year ended December 31, 2009. The comparable gross profit margins increased in 2010 primarily as a result of greater efficiencies in labor. Additionally, the CVD/First Nano division's gross profit was negatively impacted in 2010 due to a heavier labor and overhead burden placed upon it as a result of the Conceptronic division's reduced revenue in the prior year. The SDC division's gross profit margin increased to 22.7% compared to 21.8% for the year ended December 31, 2009 primarily as a result of fixed costs having a reduced impact on greater revenues. The Conceptronic division's gross profit margin increased to 43.5% for the year ended December 31, 2010 compared to 10.6% for the year ended December 31, 2009. This is primarily a result of greater revenue in the current year and the reduced labor and overhead burden.

#### Selling, General and Administrative Expenses

Selling and shipping expenses were approximately \$951,000 for the year ended December 31, 2010 compared to \$699,000 for the year ended December 31, 2009. The increase of 36.1% or \$252,000 can be primarily attributed to an increase in commissions in the current year as a result of increased revenue and an increase in sales personnel.

General and administrative expenses were approximately \$3,983,000 compared to \$3,817,000 during the year ended December 31, 2009, an increase of \$166,000 or 4.3%. This increase is primarily due to an increase in legal fees from litigation involved with the major contract that was breached in 2009.

#### Operating Income

As a result of the foregoing factors, operating income for the year ended December 31, 2010 was approximately \$945,000 compared to approximately \$304,000 for the year ended December 31, 2009, an increase of 210.9%.

#### Interest Income

Interest income for the year ended December 31, 2010 was approximately \$8,000 compared to approximately \$33,000 for the year ended December 31, 2009. This decrease is primarily attributable to our primary cash investing philosophy during turbulent economic conditions of minimizing risk.

#### Interest Expense

We incurred approximately \$227,000 of interest expense in the year ended December 31, 2010, which was approximately \$22,000, or 8.9% less than the \$249,000 incurred in the year ended December 31, 2009. The only interest expense we incur is mortgage interest on the three buildings we own and interest on certain outstanding equipment loans. The decrease in 2010 is primarily due to the reduced overall principal on the loan balances.

#### Other Income

Other income for the current year decreased to approximately \$15,000, a decrease of \$28,000, or 65.1%, compared to \$43,000 of other income generated during the year end December 31, 2009.

### Income Tax Provision

For the twelve months ended December 31, 2010, we recorded an income tax expense of approximately \$210,000. This is primarily the result of applying federal, state and local income tax rates less research and development and other tax credits that we have availed ourselves of on pre-tax income of \$742,000 as compared to approximately \$48,000 of income tax benefits for the twelve months ended December 31, 2009 on pre-tax income of \$131,000.

### Net Income

As a result of the foregoing factors, for the year ended December 31, 2010, our net income amounted to approximately \$532,000, as compared to \$179,000 for the same period in 2009.

### Inflation

Inflation has not materially impacted our operations.

### Liquidity and Capital Resources

As of December 31, 2010, we had aggregate working capital of approximately \$11,105,000 compared to aggregate working capital of \$10,563,000 at December 31, 2009 and had available cash and cash equivalents of approximately \$6,249,000 compared to approximately \$3,120,000 in cash and cash equivalents at December 31, 2009. The increase in working capital and cash and cash equivalents of \$542,000 or 5.1% and \$3,129,000 or 100%, respectively, is primarily attributable to the installment payments received on orders received during the latter part of the year ended December 31, 2010 which is illustrated by the \$2,324,000 increase in billings in excess of costs and estimated earnings on uncompleted contracts.

Accounts receivable, net of allowance for doubtful accounts increased by approximately \$779,000 or 36.6% at December 31, 2010 to \$2,909,000 compared to \$2,130,000 at December 31, 2009. This increase is principally due to the timing of shipments and customer payments.

Inventories as of December 31, 2010 was approximately \$3,480,000 representing an increase of approximately \$212,000 or 6.5% over the balance of \$3,268,000 as of December 31, 2009. This increased inventory is for building to the increased order levels received during the latter part of this year.

As of December 31, 2010, our backlog was approximately \$9,944,000, an increase of \$7,395,000 or 290.1% compared to \$2,549,000 at December 31, 2009. The increase is primarily attributed to the increased demand for energy savings, energy generation materials and products needed to address rising energy and environmental costs. This creates a growing need for manufacturing solutions using nanotechnology and thin film coatings on glass, wafers and other substrates or materials. The timing for completion of the backlog varies depending on the product mix and can be as long as two years. Included in the backlog are all accepted purchase orders with the exception of those that are included in our percentage-of-completion. Order backlog is usually a reasonable management tool to indicate expected revenues and projected profits, however, it does not provide an assurance of future achievement or profits as order cancellations or delays are possible.

On April 22, 2008, we entered into a three year Modified and Restated Revolving Credit Agreement with Capital One, N.A. (the "Bank") as successor to North Fork Bank, pursuant to which the Bank has agreed to make revolving loans to us of up to \$5 million until May 1, 2011, at which time it will be subject to renewal. The loan agreement amends and supersedes our previous \$2 million revolving credit facility with the Bank. Interest on the unpaid principal balance on this facility accrues at either (i) the LIBOR rate plus 2.00% or (ii) the Bank's prime rate minus .25%. This agreement contains certain financial and other covenants with which we are in compliance as of December 31, 2010. Borrowings are collateralized by certain assets as defined under the Agreement.

The amount available under this agreement was approximately \$4,761,000 and \$4,646,000 as of December 31, 2010 and December 31, 2009, respectively. We initially utilized \$500,000 of this facility in the form of equipment term loans, of which \$239,000 remain as of December 31, 2010.

In March 2002, we received from General Electric Capital Corporation a \$2,700,000 mortgage loan, secured by the real property and building and improvements to finance and improve our facility in Ronkonkoma, New York. The mortgage loan, which has an outstanding balance as of December 31, 2010 of \$1,404,530, is payable in equal monthly installments of \$22,285 including interest at 5.67% per annum; pursuant to an industrial development bond purchase agreement with the town of Islip Industrial Development Agency. The final payment is due March 2017.

On June 30, 2008, we entered into a Consolidation, Extension and Modification Agreement and Consolidated and Restated Mortgage note each with Capital One, N.A. The agreement consolidated various notes and mortgages relating to the property and building in Saugerties, New York into a single note in the principal sum of \$805,000 of which approximately \$17,000 represented additional borrowings we incurred. Principal and interest payments are to be made in equal consecutive monthly installments of \$5,903.27 commencing on August 1, 2008 and continuing for 119 months, with a final balloon payment being due on July 1, 2018 equal to the remaining unpaid principal on the maturity date. The principal sum bears interest at a fixed annual rate of 6.20%. The Note is secured by a first priority mortgage lien on the property in Saugerties, New York, all of the Company's monies, deposits or other sums held by the Bank on deposit, an assignment of the leases and rents from the premises, a lien on our personal property, and \$500,000 of the proceeds of a life insurance policy which is owned by us and issued on the life of our Chief Executive Officer, Leonard A. Rosenbaum.

The large demand for energy savings, energy generation materials and products needed to address rising energy costs creates a growing demand for manufacturing solutions using thin film coatings on glass, wafers and other substrates. Our Application Laboratory will help perfect and expand the multiple areas where low cost thin film manufacturing solutions can be applied and further optimize our technologies for cost and performance. We believe the solar, energy and electronic markets we are addressing with multiple products have significant growth opportunities for technologies that deliver favorable cost benefits.

In the fourth quarter of 2006, we decided to broaden the First Nano™ product line and pursue a larger share of the R & D market with additional equipment platforms under the First Nano™ brand name. In 2007, we began marketing, manufacturing and selling these products. In 2008/2009, we expanded our marketplace to include the quality control and research market of the photovoltaic solar cell manufacturing industry. In 2010, the worldwide acceptance of our First Nano™ product line resulted in a 57% increase in revenue. We feel comfortable we will continue to be successful with the existing First Nano™ products as well as additional new First Nano™ products to be offered as their design is based on building blocks we have used in previous systems over the years. First Nano will continue to keep us at the forefront of technology and enable new areas for CVD sales as the products developed in research goes into production.

We believe that our cash and cash equivalent positions, cash flow from operations and our credit facilities will be sufficient to meet our working capital and capital expenditure requirements for the next twelve months.

We may also raise additional funds in the event we determine in the future to effect one or more acquisitions of businesses, technologies or products. In addition, we may elect to raise additional funds even before we need them if the conditions for raising capital are favorable. On February 14, 2011, we filed a shelf registration statement on Form S-3 with the United States Securities and Exchange Commission (“SEC”) to register shares of our common stock and other securities for sale, giving us the opportunity to pursue possible future fundraising when needed or otherwise considered appropriate at prices and on terms to be determined at the time of any such offerings. This shelf registration was declared effective by the SEC on February 28, 2011. We currently have the ability to sell in the aggregate \$20 million of our securities under the shelf registration statement. The number of shares that we can sell and the amount of the gross proceeds that we can raise may be subject to certain limitations pursuant to applicable NASDAQ marketplace and SEC rules. Any equity or equity-linked financing could be dilutive to existing shareholders.

#### Critical Accounting Policies

##### Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Our significant estimates include accounting for certain items such as revenues on long-term contracts recognized on the percentage-of-completion method, recognition of stock-based compensation, assessment for impairment of our long-lived assets, and the valuation allowances for our income tax provisions.

##### Revenue Recognition

We continue to recognize revenues and income using the percentage-of-completion method for custom production-type contracts while revenues from other products are recorded when such products are accepted and shipped. Profits on custom production-type contracts are recorded on the basis of our total estimated costs over the percentage of total costs incurred on individual contracts commencing when progress reaches a point where experience is sufficient to estimate final results with reasonable accuracy. Under this method, revenues are recognized based on costs incurred to date compared with total estimated costs.





### Stock-Based Compensation

We record stock-based compensation in accordance with the provisions set forth in ASC 718, "Stock Compensation," using the modified prospective method. ASC 718 requires companies to recognize the cost of employee services received in exchange for awards of equity instruments based upon the grant date fair value of those awards.

### Long-Lived Assets

Long-lived assets consist primarily of property, plant and equipment. Long-lived assets are reviewed for impairment whenever events or circumstances indicate their carrying value may not be recoverable. When such events or circumstances arise, an estimate of the future undiscounted cash flows produced by the asset, or the appropriate grouping of assets, is compared to the asset's carrying value to determine if impairment exists pursuant to the requirements of ASC 360-10-35, "Impairment or Disposal of Long-Lived Assets." If the asset is determined to be impaired, the impairment loss is measured on the excess of its carrying value over its fair value. Assets to be disposed of are reported at the lower of their carrying value or net realizable value. The Company had no recorded long-lived asset impairment charges in the statement of operations during each of the years ended December 31, 2010 and 2009.

### Off-Balance Sheet Arrangements

None.

### Item 8. Financial Statements and Supplementary Data.

The consolidated financial statements and supplementary data required by this item are included in this annual report beginning on page F-1.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

**Disclosure Controls and Procedures.** We maintain a system of disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act). As required by Rule 13a-15(b) under the Exchange Act, management of the Company, under the direction of our Chief Executive Officer and Chief Financial Officer, reviewed and performed an evaluation of the effectiveness of design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) as of December 31, 2010. Based on that review and evaluation, the Chief Executive Officer and Chief Financial Officer, along with the management of the Company, have determined that as of December 31, 2010, the disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and were effective to provide reasonable assurance that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosures.

**Management's Annual Report on Internal Control Over Financial Reporting.** Our management is responsible for establishing and maintaining effective internal control over financial reporting (as defined in Rule 13a – 15(f) of the Exchange Act). There are inherent limitations to the effectiveness of any internal control, including the possibility of human error and the circumvention or overriding of controls. Accordingly, even effective internal controls can provide only reasonable assurance with respect to financial statement preparation. Further, because of changes in conditions, the effectiveness of internal control may vary over time. We have assessed the effectiveness of our internal controls over financial reporting (as defined in Rule 13a -15(f) of the Exchange Act) as of December 31, 2010. In making this assessment, we used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control – Integrated Framework. Management concluded that, as of December 31, 2010, our internal control over financial reporting was effective based on the criteria established by the COSO Internal Control Framework.

This annual report does not include an attestation report of the Company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's registered public accounting firm pursuant to the rules of the Securities and Exchange Commission that permit us to provide only management's report in this annual report.

**Changes in Internal Control Over Financial Reporting.** There were no changes in our internal control over financial reporting, identified in connection with the evaluation of such internal control that occurred during our last fiscal quarter, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information.

None.

PART III

Item 10. Directors, Executive Officers, and Corporate Governance;

BACKGROUND AND EXPERIENCE OF DIRECTORS

When considering whether directors and nominees have the experience, qualifications, attributes or skills, taken as a whole, to enable the Board of Directors to satisfy its oversight responsibilities effectively in light of our business and structure, the Nominating, Governance and Compliance Committee focused primarily on each person's background and experience as reflected in the information discussed in each of the directors' individual biographies set forth immediately below. We believe that our directors provide an appropriate mix of experience and skills relevant to the size and nature of our business. As more specifically described in such person's individual biographies set forth below, our directors possess relevant and industry-specific experience and knowledge in the engineering financial and business fields, as the case may be, which we believe enhances the Board's ability to oversee, evaluate and direct our overall corporate strategy. The Nominating, Governance and Compliance Committee annually reviews and makes recommendations to the Board regarding the composition and size of the Board so that the Board consists of members with the proper expertise, skills, attributes, and personal and professional backgrounds needed by the Board, consistent with applicable regulatory requirements.

The Nominating, Governance and Compliance Committee believes that all directors, including nominees, should possess the highest personal and professional ethics, integrity, and values, and be committed to representing the long-term interests of our shareholders. The Nominating, Governance and Compliance Committee will consider criteria including the nominee's current or recent experience as a senior executive officer, whether the nominee is independent, as that term is defined in existing independence requirements of the NASDAQ Capital Market and the Securities and Exchange Commission, the business, scientific or engineering experience currently desired on the Board, geography, the nominee's industry experience, and the nominee's general ability to enhance the overall composition of the Board.

The Nominating, Governance and Compliance Committee does not have a formal policy on diversity; however, in recommending directors, the Board and the Committee consider the specific background and experience of the Board members and other personal attributes in an effort to provide a diverse mix of capabilities, contributions and viewpoints which the Board believes enables it to function effectively as the Board of Directors of a company with our size and the nature of our business.

DIRECTOR SERVICE ON OTHER BOARDS

Conrad J. Gunther served on the Board of Directors of Halo Companies, Inc. a publicly traded company, formerly known as GVC Venture Corp until September 2009.

## LEGAL PROCEEDINGS INVOLVING DIRECTORS

None.

## BOARD LEADERSHIP

The Board has no formal policy with respect to separation of the positions of Chairman and CEO or with respect to whether the Chairman should be a member of management or an independent director, and believes that these are matters that should be discussed and determined by the Board from time to time. Currently, Leonard A. Rosenbaum serves as our Chairman, President and CEO. Given the fact that Mr. Rosenbaum, in his capacity as our President and CEO is tasked with the responsibility of implementing our corporate strategy, we believe he is best suited for leading discussions, at the Board level, regarding performance relative to our corporate strategy, and this discussion accounts for a significant portion of the time devoted at our Board meetings.

Our Certificate of Incorporation and Bylaws provide for our Company to be managed by or under the direction of the Board of Directors. Under our Certificate of Incorporation and Bylaws, the number of directors is fixed from time to time by the Board of Directors. The Board of Directors currently consists of five members. Directors are elected for a period of one year and thereafter serve, subject to the Bylaws, until the next annual meeting at which their successors are duly elected by the shareholders.

The following table sets for the names, ages and positions with the Company of each of our directors and executive officers.

Name	Age	Position(s) with the Company
Leonard A. Rosenbaum	64	Chairman of the Board of Directors, Chief Executive Officer, President
Alan H. Temple Jr.	77	Director, Chairman-Compensation Committee
Martin J. Teitelbaum	60	Director, Assistant Secretary
Conrad J. Gunther	64	Director, Chairman-Audit Committee
Bruce T. Swan	78	Director, Chairman-Nominating, Governance and Compliance Committee
Kelly S. Walters	40	Director
Glen R. Charles	57	Chief Financial Officer, Secretary
Karlheinz Strobl	51	Vice President of Business Development

## Leonard A. Rosenbaum

Leonard A. Rosenbaum founded the Company in 1982 and has been our President, Chief Executive Officer and has served as Chairman of the Board of Directors since that time. From 1971 until 1982, Mr. Rosenbaum was president, director and a principal stockholder of Nav-Tec Industries, a manufacturer of semiconductor processing equipment similar to the type of some of the equipment we currently manufacture. From 1966 to 1971, Mr. Rosenbaum was employed by a division of General Instrument, a manufacturer of semiconductor materials and equipment.

Alan H. Temple Jr.

Alan H. Temple Jr. has served as a member of our Board of Directors since 1987. Mr. Temple earned an MBA at Harvard University and has been President of Harrison Homes Inc., a building and consulting firm located in Pittsford, New York since 1977. Mr. Temple has been an independent director on our board for several years; he has accumulated many years of successful business and financial experience that qualifies him to serve as an independent director on our board.

Martin J. Teitelbaum

Martin J. Teitelbaum has served as a member of our Board of Directors since 1985. Mr. Teitelbaum is an attorney, who since 1988, has conducted his own private practice. From 1977 to 1987, Mr. Teitelbaum was a partner in the law firm of Guberman and Teitelbaum. Mr. Teitelbaum currently acts as our Assistant Secretary. Mr. Teitelbaum earned a B.A. in Political Science from the State University of New York at Buffalo and a Juris Doctor from Brooklyn Law School. Mr. Teitelbaum has been the Company's general counsel for many years and his legal expertise makes him an asset to the Company's board of directors. On February 18, 2011, we entered into an employment agreement with Mr. Teitelbaum, pursuant to which Mr. Teitelbaum will be employed by us as our General Counsel.

Conrad J. Gunther

Conrad J. Gunther has served as a member of our Board of Directors since 2000. Mr. Gunther has extensive experience in mergers and acquisitions and in raising capital through both public and private means. He also has extensive experience in executive management in the banking industry. He serves on the board of GVC Venture Corp. Since January 2008, Mr. Gunther has served as a Senior Vice President and Senior Loan Officer for Community National Bank, a Long Island, New York based commercial bank, where he is responsible for all commercial lending. For the past five years, Mr. Gunther has been the President of E-Billsolutions, a company that provides credit card processing to Internet, mail order and telephone order merchants. Mr. Gunther qualifies to serve on our board of directors as a result of his experience and expertise in the financial community.

Bruce T. Swan

Bruce T. Swan has served as a member of our Board of Directors since September 2003. Mr. Swan has extensive banking, export and international credit experience and has been retired for more than five years. He previously has held the positions of Deputy Manager at Brown Brothers Harriman and Co., Assistant Treasurer at Standard Brands Incorporated, Assistant Treasurer at Monsanto Corporation, Vice President and Treasurer at AM International Inc. and President and Founder of Export Acceptance Company. Mr. Swan, earned his MBA from Harvard University and is a former adjunct faculty member of New York University's Stern School of Business Administration. Mr. Swan is qualified to serve as an independent member of our board of directors because of his vast expertise and experience in the financial services industry.

Kelly S. Walters

Kelly S. Walters was appointed a member of the Board of Directors in September, 2009. Mr. Walters is the founder and presently serves as the managing member of Walters Advisory LLC, a management consulting firm. He has over 14 years of broad corporate finance and M&A experience having represented alternative energy, clean technology, climate policy, advanced materials, chemicals and nanotechnology clients. From 2007 until 2009, Mr. Walters was a principal at ThinkEquity partners and a principal in the firm's Greentech and Enabling Technologies investment banking team. From 2003 until 2007, he was an investment banker with Morgan, Joseph & Co. He began his investment banking career with Lehman Brothers in 2000 in the firm's Global Chemicals and Industrials Group. Mr. Walters earned an MA at The Patterson School of Diplomacy and International Commerce at the University of Kentucky. Mr. Walters also earned an MBA in Finance and a BA in Economics at the University of Kentucky. He is a Chartered Financial Analyst (CFA) charterholder, a Certified Management Accountant (CMA) and a Certified Financial Manager (CFM). Mr. Walters is qualified to serve as an independent member of our board because of his experience in the alternative energy and nanotechnology fields.

Glen R. Charles

Glen R. Charles has been the Chief Financial Officer and Secretary of the Company since January, 2004. From 2002 until he joined the Company, he was the Director of Financial Reporting for Jennifer Convertibles, Inc., the owner and licensor of the largest group of sofabed specialty retail stores in the United States. From 1994 to 2002, he was the Chief Financial Officer of Trans Global Services, Inc., a provider of temporary technical services to the aerospace, aircraft, electronics and telecommunications markets. Mr. Charles has also had his own business in the private practice of accounting. Mr. Charles earned his B.S. in Accounting from the State University of New York at Buffalo.

Karlheinz Strobl

Dr. Karlheinz Strobl has been the Vice President of Business Development since October 2007. From 1997 to 2007, until he joined the Company, he was the founder and President of eel Laboratories, LLC, a technology and manufacturing solutions development company for a novel Light Engine for the video and data projection display market. Dr. Strobl holds over 14 patents and earned an MBA from Boston University, a PH.D from the University of Innsbruck and an MS. from both the University of Innsbruck and the University of Padova. He has also worked at the Max Plank Institute and at Los Alamos National Laboratory.

Code Of Ethics

The Company adopted a Corporate Code of Conduct and Ethics that applies to its employees, senior management and Board of Directors, including the Chief Executive Officer and Chief Financial Officer. The Corporate Code of Conduct and Ethics is available on our web site, <http://www.cvdequipment.com>, by clicking on "About Us" and then clicking on "Corporate Overview."

#### Audit Committee

Our Board of Directors has an Audit Committee that consists of Conrad Gunther, Alan H. Temple Jr, Bruce T. Swan and Kelly S. Walters. During the fiscal year ended December 31, 2010, the Audit Committee held five meetings. Pursuant to the Audit Committee Charter, the Audit Committee is directly responsible for the appointment, compensation, retention and oversight of the work of any independent registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for us, and each such independent auditor shall report directly to the Committee. The Audit Committee also reviews with management and the independent auditors, our annual audited financial statements, the scope and results of annual audits and the audit and non-audit fees of the independent registered public accounting firm. Furthermore, the Audit Committee reviews the adequacy of our internal control procedures, the structure of our financial organization and the implementation of our financial and accounting policies. Messrs. Gunther, Temple, Swan and Walters are “independent” under the requirements of the NASDAQ Stock Market.

The Board of Directors has determined that Conrad Gunther is an “audit committee financial expert” as that term is defined in the rules and regulations of the Securities and Exchange Commission.

#### Section 16(a) Beneficial Ownership Reporting Compliance

The rules of the Securities and Exchange Commission require us to disclose late filings of reports of stock ownership and changes in stock ownership by our directors, officers and ten percent shareholders. To our knowledge, based solely on our review of (a) the copies of such reports and amendments thereto furnished to us and (b) written representations that no other reports were required, during our fiscal year ended December 31, 2010, all of the filings for our officers, directors and ten percent shareholders were made on a timely basis.

## Item 11. Executive Compensation.

## Summary Compensation Table

The following table sets forth the compensation of our chief executive officer and chief financial officer, our “named executive officers,” for the years ended December 31, 2010 and 2009. The Company has no executive officers other than the “named executive officers.”

Name and principal position	Year	Salary (\$)	Bonus (\$)	Option Awards (\$) (1)	All Other Compensation (4)	Total (\$)
Leonard A. Rosenbaum President and Chief Executive Officer	2010	202,742	-	-	-	202,742
	2009	202,742	-	14,655(2)	-	217,397
Glen R. Charles Secretary and Chief Financial Officer	2010	135,000	-	-	75,790	210,790
	2009	135,000	-	2,531(3)	-	137,531
Karlheinz Strobl Vice President of Business Development	2010	156,000	-	30,500(5)	-	186,500
	2009	156,000	-	30,500(5)	-	186,500

(1) Amounts shown do not reflect compensation actually received by the named executive officer. Instead, the amounts shown are the compensation costs recognized by CVD in fiscal 2010 and 2009 for option awards as determined pursuant to ASC 718. These compensation costs reflect option awards granted prior to fiscal 2010 and 2009. The assumptions used to calculate the value of option awards are set forth under Note 12 of the Notes to Consolidated Financial Statements. “This column represents the grant date fair value of the awards as calculated in accordance with FASB ASC 718 (Stock Compensation). Pursuant to SEC rule changes effective February 28, 2010, we are required to reflect the total grant date fair values of the option grants in the year of grant, rather than the portion of this amount that was recognized for financial statement reporting purposes in a given fiscal year which was required under the prior SEC rules, resulting in a change to the amounts reported in prior Annual Reports.

(2) The amount shown is attributable to non-qualified stock options to purchase 24,000 shares of the Company’s common stock granted to Mr. Rosenbaum on December 12, 2007 that became exercisable, as to 100% of the underlying shares, on October 12, 2009. These options were issued at a grant price equal to the then current market price of \$3.65. These options expire on December 12, 2017.

(3) The amount shown is attributable to non-qualified stock options to purchase 15,000 shares of the Company’s common stock granted to Mr. Charles on June 17, 2005 that became exercisable, as to 100% of the underlying shares, on June 17, 2009. These options were issued at a grant price equal to the then current market price of \$2.26. These options expire on June 16, 2012.



(4) The amount shown is attributable as to \$32,400 as a result of the exercise by Mr. Charles of 7,500 shares of the Company's common stock in 2010. The balance is attributable to accrued vacation time paid in 2010.

(5) The amount shown is attributable to non-qualified stock options to purchase 100,000 shares of the Company's common stock granted to Mr. Strobl on October 10, 2007 that became exercisable as to 25% and 37.5% of the underlying shares on October 10, 2009 and October 10, 2010 respectively.. These options were issued at a grant price equal to the then current market price of \$4.62. These options expire on October 10, 2017.

Outstanding Equity Awards at December 31, 2010

The following table sets forth the outstanding equity awards held by our named executive officers as of December 31, 2010

Name	OPTION AWARDS			
	Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options (#)	Option Exercise Price (\$)	Option Expiration Date
Leonard A. Rosenbaum	21,000	-	4.10	9/13/2012
	24,000	-	3.65	12/12/2017
Glen R. Charles	7,500	-	2.26	6/16/2012
Karlheinz Strobl	37,500	62,500 (1)	4.62	10/10/2017

(1) Options vest as to 12,500 shares on October 12 each year consecutively through 2015.

2010 Director Compensation

The following table sets forth a summary of the compensation we paid to our non-employee directors in 2010.

Name	Fees	Option Awards (1)	Restricted	Total
	Earned or Paid in Cash		Stock Awards (2)	
Alan H. Temple Jr.	\$14,000	\$12,001	\$14,025	\$40,026
Martin J. Teitelbaum	14,000	12,001	14,025	40,026
Conrad J. Gunther	17,000	12,001	14,025	43,026
Bruce t. Swan	14,000	12,001	14,025	40,026
Kelly S. Walters	14,000	12,001	14,025	40,026

(1) Amounts shown do not reflect compensation actually received by the named director. Instead, the amounts shown are the compensation costs recognized by CVD in fiscal 2010 for option awards as determined pursuant to ASC 718. These compensation costs reflect option awards granted in fiscal 2010. The assumptions used to calculate the value of option awards are set forth under Note 12 of the Notes to Consolidated Financial Statements.

At a meeting of the Stock Option and Compensation Committee on November 19, 2008, a director compensation plan was adopted applicable to all nonemployee directors, providing for annual compensation in the sum of approximately forty thousand dollars (\$40,000) to be payable to each director in a combination of cash, restricted stock grant and stock options.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stock Holder Matters.

The following table sets forth, as of March 4, 2011, information regarding the beneficial ownership of our common stock by (a) each person who is known to us to be the owner of more than five percent (5%) of our common stock, (b) each of our directors, (c) each of the named executive officers, and (d) all directors and executive officers and executive employees as a group. For purposes of the table, a person or group of persons is deemed to have beneficial ownership of any shares that such person has the right to acquire within 60 days of March 4, 2011.

Name and Address of Beneficial Owner(1)	Amounts and Nature of Beneficial Ownership (2)	Percent of Class (%)
Leonard A. Rosenbaum	1,382,450 (3)	28.5
Alan H. Temple Jr.	219,610 (4)	4.5
Martin J. Teitelbaum	107,210 (5)	2.2
Conrad J. Gunther	83,810 (6)	1.7
Bruce T. Swan	71,510 (7)	1.5
Kelly S. Walters	11,635 (8)	*
Glen R. Charles	16,000 (9)	*
Karlheinz Strobl	43,521 (10)	*
All directors and executive officers and executive employees as a group (eight (8) persons)	1,935,746	39.9

\*Less than 1% of the outstanding common stock or less than 1% of the voting power

(1) The address of Messrs. Rosenbaum, Temple, Teitelbaum, Gunther, Swan, Walters, Charles and Strobl is c/o CVD Equipment Corporation, 1860 Smithtown Avenue, Ronkonkoma, New York, 11779. The address of Gagnon Securities, LLC is 1370 Avenue of the Americas, Suite 2400, New York, NY 10019.

(2) All of such shares are owned directly with sole voting and investment power, unless otherwise noted below.

(3) Includes options to purchase 45,000 shares of our common stock.

- (4) Includes options to purchase 51,710 shares of our common stock. Does not include options to purchase 1,400 shares of our common stock. Does not include 900 shares of unvested restricted common stock.
- (5) Includes 2,000 shares held by Mr. Teitelbaum's wife as to which beneficial ownership thereof is disclaimed by Mr. Teitelbaum and options to purchase 51,710 shares of our common stock. Does not include options to purchase 1,400 shares of our common stock. Does not include 20,900 shares of unvested restricted common stock.
- (6) Includes options to purchase 51,710 shares of our common stock. Does not include options to purchase 1,400 shares of our common stock. Does not include 900 shares of unvested restricted common stock.
- (7) Includes options to purchase 51,710 shares of our common stock. Does not include options to purchase 1,400 shares of our common stock. Does not include 900 shares of unvested restricted common stock.
- (8) Includes options to purchase 6,710 shares of our common stock. Does not include options to purchase 1,400 shares of our common stock. Does not include 900 shares of unvested restricted common stock.
- (9) Includes options to purchase 7,500 shares of our common stock. Does not include 3,000 shares of unvested restricted common stock units.
- (10) Includes options to purchase 37,500 shares of our common stock. Does not include options to purchase 62,500 shares of our common stock. Does not include 3,000 shares of unvested restricted common stock units.

See Item 5, Market for Registrant's Common Equity and Related Stockholder Matters, under the heading "Equity Compensation Plan Information" for information regarding our securities authorized for issuance under equity compensation plans.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

Related Person Transactions

Martin J. Teitelbaum serves as a director and our outside general counsel. The Company incurred legal fees for Mr. Teitelbaum's professional services of approximately \$125,000 and \$65,000 for the two years ended December 31, 2010 and 2009 respectively. As of December 31, 2010 and 2009 unpaid legal fees of approximately \$125,000 and \$65,000 respectively were due Mr. Teitelbaum for services rendered. On February 18, 2011, we entered into an employment agreement, (the "Employment Agreement"), with Mr. Teitelbaum pursuant to which Mr. Teitelbaum will be employed by us as our General Counsel for a term of five years. Mr. Teitelbaum shall receive an initial base salary of \$225,000 in the first year of employment, which shall be increased on the anniversary date of each year of the effective date of the Employment Agreement by 5% over the prior year. As additional compensation, we issued to Mr. Teitelbaum 20,000 shares of restricted common stock of the Company pursuant to our 2007 Share Incentive Plan, which shall vest annually on each anniversary of the effective date of the Employment Agreement, provided that Mr. Teitelbaum remains employed by us on such date, at the rate of 4,000 shares per year.

Charles Temple, son of Alan H. Temple Jr., our director, is a non-officer employee of the Company. The Company paid Charles Temple approximately \$106,200 and \$102,200 in salary during the fiscal years ending December 31, 2010 and 2009, respectively.

We maintain bank accounts and deposits cash in Community National Bank. Conrad Gunther, a director of the Company, is a Senior Vice President and Senior Loan Officer at Community National Bank. We do not pay any fees to Mr. Gunther or Community National Bank in connection with this investment vehicle.

Director Independence

The current members of our Board of Directors are Leonard A. Rosenbaum, Alan H. Temple Jr., Martin J. Teitelbaum, Conrad J. Gunther, Bruce T. Swan and Kelly S. Walters. Messrs. Gunther, Temple, Swan and Walters have been determined to be "independent" as defined under Rule 4200 of the Nasdaq Stock Market.

Item 14. Principal Accountant Fees and Services.

The following presents fees for professional audit services rendered by MSPC, Certified Public Accountants and Advisors, A Professional Corporation (“MSPC”), (formerly known as Moore Stephens, P.C.) for the audit of our financial statements for the years ended December 31, 2010 and December 31, 2009.

Audit Fees

The aggregate fees billed by MSPC for the annual audit of the Company, quarterly interim reviews of financial statements including the Company’s reports on Form 10-Q and services normally provided by them in connection with statutory and regulatory filings, for fiscal years 2010 and 2009, were \$98,500 and \$94,000, respectively.

Audit- Related Fees

We did not incur any audit-related fees in 2010 or 2009.

Tax Fees

Tax fees in 2010 consisted of the tax preparation of the 2009 tax return by Holtz, Rubenstein Reminick LLP as well as the preparation of the tax return filing extensions by MSPC. The aggregate fees billed by Holtz, Rubenstein Reminick LLP and MSPC in 2010 was \$15,350. Tax fees in 2009 consisted of the tax preparation of the 2008 annual tax return by MSPC. The aggregate fees billed by MSPC for such services was \$11,400.

All Other Fees

Other fees consisted of advisory services provided by MSPC relating to the Company’s Share Incentive Plan and Sarbanes Oxley requirements in 2009. The aggregate fee billed by MSPC for such services was \$1,000 in 2009. The Company did not incur any other fees in 2010.

Audit Committee Approval

The engagement of the Company’s independent registered public accounting firm is pre-approved by the Company’s Audit Committee. The Audit Committee pre-approves all fees billed and all services rendered by the Company’s independent registered public accounting firm.

PART IV

Item 15. Exhibits, Financial Statement Schedules

- 3.1 Certificate of Incorporation dated October 12, 1982 of Certificate of Corporation incorporated herein by reference to Exhibit 3.1 to our Form S-1 filed on July 3, 2007.
- 3.2 Certificate of Amendment dated April 25, 1985 of Certificate of Corporation incorporated herein by reference to Exhibit 3.1 to our Form S-1 filed on July 3, 2007.
- 3.3 Certificate of Amendment dated August 12, 1985 of Certificate of Corporation incorporated herein by reference to Exhibit 3.1 to our Form S-1 filed on July 3, 2007.
- 3.4 Bylaws of CVD Equipment Corporation, incorporated herein by reference to Exhibit 3.2 to our Form S-1 filed on July 3, 2007.
- 10.1 Form of Non-Qualified Stock Option Agreement with certain directors, officers and employees of CVD Equipment Corporation incorporated herein by reference to our Registration Statement on Form S-8 No. 33-30501, filed August 15, 1989.\*
- 10.2 Purchase a 22,000 square foot facility from Kidco Realty incorporated herein by reference to our Form 8-K filed on December 31, 1998.
- 10.3 CVD Equipment Corporation 2001 Stock Option Plan incorporated herein by reference to Exhibit 3.1 to our Form S-1 filed on July 3, 2007.\*
- 10.4 Form of Non-Qualified Stock Option Agreement incorporated herein by reference to Exhibit 3.1 to our Form 10-KSB filed on March 26, 2007.\*
- 10.5 1989 Key Employee Stock Option Plan incorporated herein by reference to Amendment No. 1 to our Form S-1 filed on August 7, 2007.
- 10.6 CVD Equipment Corporation 2007 Share Incentive Plan incorporated herein by reference to our Schedule 14A filed November 5, 2007.
- 10.7 Contract of sale between CVD Equipment Corporation and HPG Realty Co., LLC for the purchase of a 13,300 square foot facility located at 979 Marconi Avenue, Ronkonkoma, NY 11779.
- 10.8 Assignment, Assumption and Amendment Agreement by and among Town of Islip Industrial Development Agency, North Fork Bank, HPG Realty Co., LLC, Tri-Start Electronics, Inc., and CVD Equipment Corporation dated February 8, 2008.
- 10.9 Lease Agreement between Town of Islip Industrial Development Agency and HPG Realty Co., LLC dated February 1, 2004.

- 10.10 Payment-In-Lieu-Of-Tax Agreement dated February 1, 2004 between Town of Islip Industrial Development Agency, HPG Realty Co., LLC, and Tri-Start Electronics, Inc.
- 10.11 Mortgage Note between North Fork Bank dated February 8, 2008 in the principal amount of \$1,000,000.
- 10.12 Mortgage Note between North Fork Bank dated February 8, 2008 in the principal amount of \$500,000.
- 10.13 Modified and Restated Revolving Credit Agreement between CVD Equipment Corporation and Capital One N.A. ("Capital One") incorporated herein by reference to our Current Report on Form 8-K filed on April 28, 2008.
- 10.14 Consolidated and Restated Revolving Line of Credit Note between CVD Equipment Corporation and Capital One incorporated herein by reference to our Current Report on Form 8-K filed on April 28, 2008.
- 10.15 Consolidation, Extension and Modification agreement between the Registrant and Capital One, N.A. incorporated herein by reference to our Current Report on Form 8-K filed on April 28, 2008.
- 10.16 Consolidated and Restated Mortgage Note relating to Registrant's property known as 1117 Old Kings Highway, Saugerties, New York incorporated by reference to our Current Report on Form 8-K filed on July 7, 2008.
- 21.1 List of Subsidiaries.
- 23.1 Consent of MSPC, Certified Public Accountants and Advisors, A Professional Corporation (S-1)
- 23.2 Consent of MSPC, Certified Public Accountants and Advisors, A Professional Corporation (S-8)
- 23.3 Consent of MSPC, Certified Public Accountants and Advisors, A Professional Corporation (S-8)
- 23.4 Consent of MSPC, Certified Public Accountants and Advisors, A Professional Corporation (S-3)
- 31.1 Rule 13a-14(a)/15d-14(a) Certification of Chief Executive Officer.
- 31.2 Rule 13a-14(a)/15d-14(a) Certification of Chief Financial Officer.
- 32.1 Section 1350 Certification of Principal Executive Officer.
- 32.2 Section 1350 Certification of Principal Financial Officer.
- \* Management contract or compensatory plan or arrangement required



SIGNATURES

In accordance with Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

C V D E Q U I P M E N T  
CORPORATION

By: /s/ Leonard A. Rosenbaum  
Name: Leonard A. Rosenbaum  
Title: President and Chief  
Executive Officer

In accordance with the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated below.

NAME	POSITION	DATE
/s/ Leonard A Rosenbaum Leonard A. Rosenbaum	President, Chief Executive Officer and Director (Principal Executive Officer)	March 7, 2011
/s/ Alan H. Temple Jr. Alan H. Temple Jr.	Director	March 7, 2011
/s/ Martin J. Teitelbaum Martin J. Teitelbaum	Director and Assistant Secretary	March 7, 2011
/s/ Conrad J. Gunther Conrad J. Gunther	Director	March 7, 2011
/s/ Bruce T. Swan Bruce T. Swan	Director	March 7, 2011
/s/ Kelly S. Walters Kelly S. Walters	Director	March 7, 2011
/s/ Glen R. Charles Glen R. Charles	Chief Financial Officer and Secretary (Principal Financial and Accounting Officer)	March 7, 2011

CVD EQUIPMENT CORPORATION AND SUBSIDIARY  
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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders  
CVD Equipment Corporation and Subsidiary  
Ronkonkoma, New York

We have audited the accompanying consolidated balance sheets of CVD Equipment Corporation and Subsidiary as of December 31, 2010 and 2009, and the related consolidated statements of operations, stockholders' equity, and cash flows for each of the two years in the period ended December 31, 2010. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of CVD Equipment Corporation and Subsidiary as of December 31, 2010 and 2009, and the results of their consolidated operations and their consolidated cash flows for each of the two years in the period ended December 31, 2010, in conformity with U.S. generally accepted accounting principles.

We were not engaged to examine management's assessment of the effectiveness of CVD Equipment Corporation and Subsidiary's internal control over financial reporting as of December 31, 2010, included in the accompanying Management's Annual Report on Internal Control Over Financial Reporting and, accordingly, we do not express an opinion thereon.

/s/ MSPC  
Certified Public Accountants and Advisors,  
A Professional Corporation

Cranford, New Jersey  
March 4, 2011

The accompanying notes are an integral part of the consolidated financial statements.

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CVD EQUIPMENT CORPORATION AND SUBSIDIARY  
Consolidated Balance Sheets  
As of December 31,

	2010	2009
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$6,249,090	\$3,119,731
Accounts receivable, net	2,909,173	2,130,196
Costs and estimated earnings in excess of billings on uncompleted contracts	1,658,689	2,708,084
Inventories, net	3,479,862	3,268,138
Idle inventories	1,150,000	1,150,000
Deferred income taxes – current	232,481	378,412
Other current assets	136,269	213,593
	15,815,564	12,968,154
<b>Total Current Assets</b>		
Property, plant and equipment, net	7,554,317	7,591,363
Deferred income taxes – non-current	780,288	711,293
Other assets	157,661	322,602
Intangible assets, net	58,310	71,579
<b>Total Assets</b>	<b>\$24,366,140</b>	<b>\$21,664,991</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>Current Liabilities</b>		
Current maturities of long-term debt	\$372,387	\$368,041
Billings in excess of costs and estimated earnings on uncompleted contracts	2,323,691	-
Accounts payable	640,829	873,626
Accrued expenses	1,148,101	947,264
Accrued professional fees – related party	125,000	64,521
Deferred revenue	100,373	151,514
<b>Total Current Liabilities</b>	<b>4,710,381</b>	<b>2,404,966</b>
Long-term debt, net of current portion	3,396,446	3,768,824
<b>Total Liabilities</b>	<b>8,106,827</b>	<b>6,173,790</b>
Commitments and Contingencies (Note 17)	-	-
<b>Stockholders' Equity:</b>		
Common stock - \$0.01 par value – 10,000,000 shares authorized: issued & outstanding, 4,819,325 shares at December 31, 2010 and 4,761,825 shares at December 31, 2009	48,193	47,618

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Additional paid-in capital	10,329,526	10,093,761
Retained earnings	5,881,594	5,349,822
Total Stockholders' Equity	16,259,313	15,491,201
Total Liabilities and Stockholders' Equity	\$24,366,140	\$21,664,991

The accompanying notes are an integral part of the consolidated financial statements.

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CVD EQUIPMENT CORPORATION AND SUBSIDIARY  
Consolidated Statements of Operations  
Years ended December 31,

	2010	2009
Revenue (Note 17)	\$ 16,257,587	\$ 10,575,019
Cost of revenue	10,377,564	5,755,501
Gross profit	5,880,023	4,819,518
Operating expenses		
Selling and shipping	951,256	698,820
General and administrative	3,858,376	3,752,673
Related party – professional fees	125,000	64,521
Total operating expenses	4,934,632	4,516,014
Operating income	945,391	303,504
Other income (expense):		
Interest income	8,215	33,464
Interest expense	(226,559 )	(248,715 )
Other income	14,520	43,135
Total other (expense), net	(203,824 )	(172,116 )
Income before income tax (expense) benefit	741,567	131,388
Income tax (expense) benefit	(209,795 )	47,636
Net income	\$ 531,772	\$ 179,024
Basic earnings per common share	\$ 0.11	\$ 0.04
Diluted earnings per common share	\$ 0.11	\$ 0.04
Weighted average common shares outstanding basic	4,798,660	4,760,749
Weighted average common shares outstanding diluted	4,856,626	4,807,907

The accompanying notes are an integral part of the consolidated financial statements.

CVD EQUIPMENT CORPORATION AND SUBSIDIARY  
Consolidated Statements of Changes in Stockholders' Equity

	Common Stock		Additional	Retained	Total
	Shares	Amount	Paid-In Capital	Earnings	Stockholders' Equity
Balance – January 1, 2009	4,749,500	\$ 47,495	\$ 9,927,260	\$ 5,170,798	\$15,145,553
Stock-based compensation	12,325	123	166,501		166,624
Net Income				179,024	179,024
Balance – December 31, 2009	4,761,825	\$ 47,618	\$10,093,761	\$ 5,349,822	\$15,491,201
Exercise of stock options	41,000	410	63,440		63,850
Stock-based compensation	16,500	165	172,325		172,490
Net income				531,772	531,772
Balance – December 31, 2010	4,819,325	\$48,193	\$10,329,526	\$5,881,594	\$16,259,313

The accompanying notes are an integral part of the consolidated financial statements.

CVD EQUIPMENT CORPORATION AND SUBSIDIARY  
Consolidated Statements of Cash Flows  
Years ended December 31,

	2010	2009
Cash flows from operating activities:		
Net income	\$ 531,772	\$ 179,024
Adjustments to reconcile net income to net cash provided by (used in) operating activities		
Depreciation and amortization	588,987	580,238
Stock-based compensation	172,490	166,624
Deferred tax benefit	76,936	(263,140 )
Bad debt provision	(37,677 )	(29,134 )
(Increase)/decrease in operating assets		
Accounts receivable	(741,300 )	541,609
Cost in excess of billings on uncompleted contracts	1,049,395	1,264,449
Inventories, net	(211,724 )	(883,563 )
Other current assets	77,324	(38,810 )
Other assets	----	83,300
Increase/(decrease) in operating liabilities		
Customer deposits	----	(3,559,410)
Billings in excess of costs and estimated earnings on uncompleted contracts	2,323,691	----
Accounts payable	(232,797 )	467,205
Accrued expenses	261,316	280,131
Deferred revenue	(51,141 )	122,769
Total adjustments	3,275,500	(2,202,142)
Net cash provided by (used in) operating activities	3,807,272	(2,023,118)
Cash flows from investing activities:		
Capital expenditures	(373,731 )	(232,083 )
Deposits	----	850
Net cash (used in) investing activities	(373,731 )	(231,233 )
Cash flows from financing activities:		
Payments of long-term debt	(368,032 )	( 347,287 )
Net proceeds from stock options exercised	63,850	----
Net cash (used in) financing activities	(304,182 )	(347,287 )
Net increase (decrease) in cash and cash equivalents		
	3,129,359	(2,601,638)
Cash and cash equivalents at beginning of year		
	3,119,731	5,721,369
Cash and cash equivalents at end of year		
	\$ 6,249,090	\$ 3,119,731
Supplemental disclosure of cash flow information:		



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Income taxes paid	\$40,048	\$95,425
Interest paid	\$226,559	\$ 248,715
Transfer of equipment to cost on uncompleted contract	\$---	\$242,260

The accompanying notes are an integral part of the consolidated financial statements.

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CVD EQUIPMENT CORPORATION AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2010 and 2009

Note 1 – Business Description

CVD Equipment Corporation and its subsidiary (the “Company”), a New York corporation, was organized and commenced operations in October 1982. Its principal business activities include the manufacturing of chemical vapor deposition equipment, customized gas control systems, the manufacturing of process equipment suitable for the synthesis of a variety of one-dimensional nanostructures and nanomaterials and a line of furnaces, all of which are used primarily to produce semiconductors and other electronic components. The Company engages in business throughout the United States and internationally.

Note 2 - Summary of Significant Accounting Policies

Principles of Consolidation

The consolidated financial statements include the accounts of CVD Equipment Corporation and its wholly owned subsidiary. In December 1998, a subsidiary, Stainless Design Concepts, Ltd., was formed as a New York Corporation. In April 1999, this subsidiary was merged into CVD Equipment Corporation. The Company has one inactive subsidiary, CVD Materials Corporation, as of December 31, 2010 and 2009. All significant intercompany accounts and transactions have been eliminated in consolidation.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Estimates are used when the accounting for certain items such as revenues on long-term contracts recognized on the percentage-of-completion method, allowances for doubtful accounts, depreciation and amortization, valuation allowances for deferred tax assets, impairment considerations of long-lived assets, stock-based compensation, and product warranties.

Revenue and Income Recognition

The Company recognizes revenues using the percentage-of-completion method for custom production-type contracts, while revenues from other products are recorded when such products are accepted and shipped. Profits on custom production-type contracts are recorded on the basis of the Company’s estimates of the percentage-of-completion of individual contracts, commencing when

CVD EQUIPMENT CORPORATION AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2010 and 2009

progress reaches a point where experience is sufficient to estimate final results with reasonable accuracy. Under this method, revenues are recognized based on costs incurred to date compared with total estimated costs.

The asset, "Costs and estimated earnings in excess of billings on uncompleted contracts," represents revenues recognized in excess of amounts billed.

The liability, "Billing in excess of costs and estimated earnings on uncompleted contracts," represents amounts billed in excess of revenues earned.

#### Inventories

Inventories are valued at the lower of cost (determined on the first-in, first-out method) or market.

#### Income Taxes

Deferred tax assets and liabilities are determined based on the estimated future tax effects of temporary differences between the financial statements and tax bases of assets and liabilities, as measured by the future enacted tax rates. Deferred tax expense (benefit) is the result of changes in the deferred tax assets and liabilities. The Company records a valuation allowance against deferred tax assets when it is more likely than not that future tax benefits will not be utilized based on a lack of sufficient positive evidence.

Investment tax credits are accounted for by the flow-through method reducing income taxes currently payable and the provision for income taxes in the period the assets giving rise to such credits are placed in service. To the extent such credits are not currently utilized on the Company's tax return, deferred tax assets, subject to considerations about the need for a valuation allowance, are recognized for the carryforward amount.

On January 1, 2007, the Company adopted the accounting standard on accounting for uncertainty in income taxes, which addresses the determination of whether tax benefits claimed or expected to be claimed on a tax return should be recorded in the financial statements. Under this guidance, the Company may recognize the tax benefit from an uncertain tax position only if it is more-likely-than-not that the tax position will be sustained on examination by taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such a position are measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. The guidance on accounting for uncertainty in income taxes also addresses derecognition, classification, interest and penalties on income taxes, and accounting in interim periods. The Company does not believe it has any uncertain tax positions through the year ending December 31, 2010 which would have a material impact on the Company's consolidated financial statements.

CVD EQUIPMENT CORPORATION AND SUBSIDIARY  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2010 and 2009

The Company and its subsidiary file combined income tax returns in the U.S. federal and New York State jurisdiction. In addition, the parent company files standalone tax returns in California, Michigan, Minnesota, New Hampshire and Wisconsin. The Company is no longer subject to U.S. federal and state income tax examinations by tax authorities for tax periods before 2007.

The Company recognizes interest and penalties accrued related to unrecognized tax benefits, if any, in its income tax provision. The Company had no interest and penalties accrued at December 31, 2010 and 2009.

#### Long-Lived Assets

Long-lived assets consist primarily of property, plant and equipment. Long-lived assets are reviewed for impairment whenever events or circumstances indicate their carrying value may not be recoverable. When such events or circumstances arise, an estimate of the future undiscounted cash flows produced by the asset, or the appropriate grouping of assets, is compared to the asset's carrying value to determine if impairment exists pursuant to the requirements of ASC 360-10-35, "Impairment or Disposal of Long-Lived Assets." If the asset is determined to be impaired, the impairment loss is measured on the excess of its carrying value over its fair value. Assets to be disposed of are reported at the lower of their carrying value or net realizable value. The Company had no recorded impairment charges in the consolidated statement of operations during each of the years ended December 31, 2010 and 2009.

#### Computer Software

The Company follows ASC 350-40, "Internal Use Software." This standard requires certain direct development costs associated with internal-use software to be capitalized including external direct costs of material and services and payroll costs for employees devoting time to the software projects. These costs totaled \$0 and \$3,393 for the years ended December 31, 2010 and 2009, respectively, and are included in Other Assets. All computer software is amortized using the straight-line method over its estimated useful life of three to five years. Amortization expense related to computer software totaled \$169,442 and \$145,358 for the years ended December 31, 2010 and 2009, respectively.

#### Intangible Assets

The cost of intangible assets is being amortized on a straight-line basis over their estimated useful lives ranging from 5 to 20 years. Amortization expense recorded by the Company in 2010 and 2009 totaled \$8,342 and \$12,810, respectively.

#### Research & Development

Research and development costs are expensed as incurred. We incurred approximately \$712,000 and \$757,000 of research and development expenses in 2010 and 2009, respectively. These costs are included as part of cost of revenue in the consolidated statement of operations.

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#### Bad Debts

Accounts receivable is presented net of an allowance for doubtful accounts of \$19,439 and \$57,116 as of December 31, 2010 and 2009, respectively. The allowance is based on historical experience and management's evaluation of the collectability of accounts receivable. Management believes the allowance is adequate. However, future estimates may change based on changes in economic and customer conditions. The Company doesn't require collateral from its customers.

#### Product Warranty

The Company records warranty costs as incurred and does not provide for possible future costs. Management estimates such costs are immaterial based on historical experience. However, it is reasonably possible that this estimate may change in future periods.

#### Earnings Per Share

Basic net earnings per common share is computed by dividing the net income by the weighted average number of shares of common stock outstanding during each period. When applicable, diluted earnings per common share is determined using the weighted-average number of common shares outstanding during the period, adjusted for the dilutive effect of common stock equivalents, consisting of shares that might be adjusted upon exercise of common stock options and warrants.

Potential common shares issued are calculated using the treasury stock method, which recognizes the use of proceeds that could be obtained upon the exercise of options and warrants in computing diluted earnings per share. It assumes that any proceeds would be used to purchase common stock at the average market price of the common stock during the period.

#### Cash and Cash Equivalents

The Company considers all highly liquid financial instruments purchased with an original maturity of three months or less at the date of purchase to be cash equivalents.

#### Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash, cash equivalents, and accounts receivable. The Company places its cash equivalents with high credit-quality financial institutions and invests its excess cash primarily in money market instruments. The Company has established guidelines relative to credit ratings and maturities that seek to maintain stability and liquidity. The Company sells products and services to various companies across several industries in the ordinary course of business. The Company routinely assesses the financial strength of its customers and maintains allowances for anticipated losses based upon historical experience.

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#### Fair value of Financial Instruments

The carrying amounts of financial instruments including cash and cash equivalents, accounts receivable, accounts payable and accrued expenses, and customer deposits approximate fair value due to the relatively short term maturity of these instruments. The carrying value of long-term debt approximates fair value based on prevailing borrowing rates currently available for loans with similar terms and maturities.

#### Stock-Based Compensation

The Company records stock-based compensation in accordance with the provisions set forth in ASC 718, "Stock Compensation" using the modified prospective method. ASC 718 requires companies to recognize the cost of employee services received in exchange for awards of equity instruments based upon the grant date fair value of those awards.

#### Shipping and Handling

It is the Company's policy to include freight in total sales. The amount netted against sales was \$29,111 and \$25,149 for the years ended December 31, 2010 and 2009, respectively. Included in selling and shipping expense is \$96,855 and \$94,555 for shipping and handling costs for each of the years ended 2010 and 2009, respectively.

#### Recently Adopted Accounting Pronouncements

##### Life of Intangible Assets

During the first quarter of 2009, we adopted new accounting guidance issued by the FASB for the determination of the useful life of intangible assets. The new guidance amends the factors that should be considered in developing the renewal or extension assumptions used to determine the useful life of a recognized intangible asset. The new guidance also requires expanded disclosure regarding the determination of intangible asset useful lives. The adoption of this accounting guidance did not have a material impact on our consolidated financial position, results of operations or financial condition.

##### Fair Value of Financial Instruments and Other-Than-Temporary Impairment

During the second quarter of 2009, we adopted three related sets of accounting guidance issued by the FASB. The accounting guidance sets forth rules related to determining the fair value of financial assets and financial liabilities when the activity levels have significantly decreased in relation to the normal market, guidance related to the determination of other-than-temporary impairments to include the intent and ability of the holder as an indicator in the determination of whether an other-than-temporary impairment exists and interim disclosure requirements for the fair value of financial instruments. The adoption of these three sets of accounting guidance did not have a material impact on our consolidated balance sheet, results of operations or financial condition.



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#### Accounting Standards Codification

In June 2009, Accounting Standards Update (“ASU”) No. 2009-01 amended the FASB Accounting Standards Codification for the issuance of FASB Statement No. 168, The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles was issued as authoritative guidance which replaced the previous hierarchy of GAAP and establishes the FASB Codification as the single source of authoritative U.S. GAAP recognized by the FASB to be applied by nongovernmental entities. This standard establishes only two levels of U.S. generally accepted accounting principles (“GAAP”), authoritative and non-authoritative. The FASB Accounting Standards Codification (the “ASC”) will become the source of authoritative, nongovernmental GAAP, except for rules and interpretive releases of the SEC, which are sources of authoritative GAAP for SEC registrants. All other nongrandfathered, non-SEC accounting literature not included in the ASC will become non-authoritative. This standard was effective for financial statements for interim or annual reporting periods ending after September 15, 2009. The Company adopted the new guidelines and numbering system prescribed by the ASC for the period ended September 30, 2009, as required, and adoption did not have a material impact on the Company’s consolidated financial statements since the FASB Codification is not intended to change or alter existing GAAP.

#### Recently Issued Accounting Standards

##### Variable Interest Entities

In June 2009, the FASB issued new accounting guidance which amends the evaluation criteria to identify the primary beneficiary of a variable interest entity, or VIE, and requires ongoing reassessment of whether an enterprise is the primary beneficiary of the VIE. The new guidance significantly changes the consolidation rules for VIEs including the consolidation of common structures such as joint ventures, equity method investments and collaboration arrangements. The guidance is applicable to all new and existing VIEs. The provisions of this new accounting guidance are effective for interim and annual reporting periods beginning after November 15, 2009. The adoption of this new accounting guidance did not have a material impact on our consolidated balance sheet, results of operations or financial condition.

##### Revenue Recognition

In September 2009, the FASB issued new accounting guidance related to the revenue recognition of multiple element arrangements. The new guidance states that if vendor specific objective evidence or third party evidence for deliverables in an arrangement cannot be determined, companies will be required to develop a best estimate of the selling price to separate deliverables and allocate arrangement consideration using the relative selling price method. In addition, the FASB also issued new accounting guidance related to certain revenue arrangements that include software elements. Previously, companies that sold tangible products with “more than incidental” software were required to apply software revenue recognition guidance. This guidance often delayed revenue recognition for the delivery of the tangible product. Under the new guidance, tangible products that have software components that are “essential to the functionality” of the tangible product will be excluded from the software revenue recognition guidance. The new guidance will include factors to help companies determine what is “essential to the functionality.” Software-enabled products will now be subject to other revenue guidance and will likely follow the guidance for multiple deliverable arrangements issued by the FASB in September 2009.





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These two new guidance are to be applied on a prospective basis for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010, with earlier application permitted. If a company elects earlier application and the first reporting period of adoption is not the first reporting period in the company's fiscal year, the guidance must be applied through retrospective application from the beginning of the company's fiscal year and the company must disclose the effect of the change to those previously reported periods. The adoption of this accounting guidance did not have a material impact on our consolidated balance sheet, results of operations or financial condition.

#### Improving Disclosures About Fair Value Measurements

In January 2010, the FASB issued updated accounting guidance related to fair value measurements and disclosures which amends and clarifies existing disclosure requirements. This updated accounting guidance requires new disclosures related to amounts transferred into and out of Level 1 and 2 fair value measurements as well as separate disclosures of purchases, sales, issuances, and settlements related to amounts reported as Level 3 fair value measurements. This guidance also clarifies existing fair value disclosure requirements related to the level of disaggregation and the valuation techniques and inputs used to measure fair value for both recurring and nonrecurring fair value measurements. This guidance is effective for interim and annual periods, beginning after December 15, 2009, except for the separate disclosures of purchases, sales, issuances, and settlements related to amounts reported as Level 3 fair value measurements, which is effective for fiscal years beginning after December 13, 2010. The adoption of this guidance did not have a material impact on our consolidated financial statements.

#### Note 3 – Fair Value Measurements

On January 1, 2009, we implemented new accounting guidance, ASC 820, Fair Value Measurements and Disclosures, on a prospective basis for our non-financial assets and liabilities that are not recognized or disclosed at fair value on a recurring basis. The new guidance requires that we determine the fair value of financial and non-financial assets and liabilities using the fair value hierarchy and describes three levels of inputs that may be used to measure fair value as follows:

Level 1 inputs which include quoted prices in active markets for identical assets or liabilities.

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Level 2 inputs which include observable inputs other than Level 1 inputs, such as quoted prices for similar assets or liabilities; quoted prices for identical or similar assets or liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the asset or liability, and Level 3 inputs which include unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the underlying asset or liability. Level 3 assets and liabilities include those whose fair value measurements are determined using pricing models, discounted cash flow methodologies or similar valuation techniques, as well as significant management judgment or estimation.

This accounting guidance for our non-financial assets and liabilities that are not recognized or disclosed at fair value on a recurring basis had no effect on our consolidated net income for the years ended December 31, 2010 and 2009.

The following table summarizes, for each major category of assets and liabilities, the respective fair value and the classification by level of input within the fair value hierarchy.

Description	December 31, 2010 (Unaudited)				December 31, 2009			
	Level (1)	Level (2)	Level (3)	Total	Level (1)	Level (2)	Level (3)	Total
Assets:								
Cash equivalents	\$ 3,371,346	\$ ---	---	\$ 3,371,346	\$ 1,795,622	\$ ---	---	\$ 1,795,622
Total Liabilities	\$ ---	\$ ---	\$ ---	\$ ---	\$ ---	\$ ---	\$ ---	\$ ---

#### Note 4 – Uncompleted Contracts

Costs, estimated earnings, and billings on uncompleted contracts are summarized as follows:

	2010	2009
Costs incurred on uncompleted contracts	\$2,089,096	\$1,504,137
Estimated earnings	2,935,315	2,429,770
Billings to date	(5,689,413)	(1,225,823)
	\$ (665,002 )	\$ 2,708,084
	2010	2009
Included in accompanying balance sheets		
Under the following captions:		
Costs and estimated earnings in excess of billings on uncompleted contracts	\$1,658,689	\$2,708,084
Billings in excess of costs and estimated earnings on uncompleted contracts	\$ (2,323,691)	\$ ----



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## Note 5 - Inventories

Inventories consist of:

	2010	2009
Raw materials	\$2,010,820	\$1,848,620
Work-in-process	1,388,516	1,238,115
Finished goods	180,526	181,403
Totals	3,579,862	3,268,138
Less: Reserve for Obsolescence	(100,000)	---
	\$3,479,862	\$3,268,138

Idle inventory includes \$1,150,000 of equipment returned from terminated contract which was valued at the lower of cost or market. (See Note 17)

## Note 6 – Property, Plant and Equipment

Major classes of property, plant and equipment consist of the following:

	2010	2009
Land	\$1,135,000	\$1,135,000
Buildings	4,507,366	4,507,366
Building improvements	2,120,054	2,105,781
Machinery and equipment	1,886,564	1,886,564
Furniture and fixtures	341,245	341,245
Computer equipment	460,818	414,420
Transportation equipment	109,969	109,969
Lab equipment	757,249	444,637
Totals at cost	11,318,265	10,944,982
Less: Accumulated depreciation and amortization	(3,763,948 )	(3,353,619 )
	\$7,554,317	\$7,591,363
Depreciation and amortization expense (1)	\$588,987	\$580,238

(1) Includes amortization expense of \$178,658 and \$161,510 for the years ending December 31, 2010 and 2009, respectively. Such amortization expense relates to other capitalized and intangible assets.

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## Note 7 – Intangible Assets

Intangible assets as of December 31 are summarized as follows:

2010

Intangible Assets	Weighted Average Amortization Period	Cost	Accumulated Amortization	Net of Accumulated Amortization
Licensing Agreement	5	\$10,000	\$10,000	\$0
Patents & Copyrights	14	46,692	25,045	21,647
Intellectual Property	15	100,000	63,337	36,663
Certifications	3	58,485	58,485	0
Other	5	21,492	21,492	0
<b>Totals</b>		<b>\$236,669</b>	<b>\$178,359</b>	<b>\$58,310</b>

2009

Intangible Assets	Weighted Average Amortization Period	Cost	Accumulated Amortization	Net of Accumulated Amortization
Licensing Agreement	5	\$10,000	\$10,000	\$0
Patents & Copyrights	14	46,243	23,359	22,884
Intellectual Property	15	100,000	56,670	43,330
Certifications	3	58,485	53,120	5,365
Other	5	21,492	21,492	0
<b>Totals</b>		<b>\$236,220</b>	<b>\$164,641</b>	<b>\$71,579</b>

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## Note 7 – Intangible Assets (continued)

The estimated amortization expense related to intangible assets for each of the five succeeding fiscal years and thereafter as of December 31 is as follows:

Year Ended							
2011	\$	8,352					
2012		8,352					
2013		(\$)(1)					
Charles A. Carroll	May 7, 2007	\$ 399,032	\$ 1,064,084	\$ 5,122,500	200,000	\$ 19.16	\$ 7.90
Lawrence M. Blackburn	May 7, 2007	110,775	332,325	1,717,013	90,000	19.16	7.90
Ben D. Campbell	May 7, 2007	89,591	268,772	1,388,657	35,000	19.16	7.90
Donald R. King	May 7, 2007	80,950	242,850	1,254,725	35,000	19.16	7.90
William L. Topper	May 7, 2007	92,026	276,077	1,426,399	25,000	19.16	7.90

(1) Amounts earned for 2007 were between the Target Plus and Superior level specified under the 2007 Bonus Program. Amounts shown in the table as Maximum payout reflect the excellence plus level specified under the 2007 Bonus Program. The potential payout of annual cash incentive to an executive officer under the 2007 Bonus Program could exceed the excellence level if approved by the Board. The annual payout for each executive officer was capped at \$3,750,000.

As shown in the Summary Compensation Table, the primary elements of compensation of the named executive officers (or NEOs) are cash in the form of base salary and incentive bonus. For 2007, amounts paid as performance-based cash compensation exceeded base salary.

The amounts shown in the Grants of Plan-Based Awards Table represent payouts at the threshold, target and highest specified (excellence plus) levels for the annual cash incentives earned by the NEOs in 2007. The potential payouts were performance-driven, based on achievement of pre-established EBITDA levels, and therefore completely at risk. If threshold levels of performance were not met, then the payout could have been zero. If our EBITDA performance exceeded the level corresponding to the highest specified payout (the excellence plus level), the Board had the discretion to award an amount greater than the highest specified payout; provided that no individual could receive an amount in excess of \$3,750,000 annually. A portion of the annual incentive compensation for 2007 was paid in November 2007 and the remainder upon the closing of the merger, and reflected performance above the target level but below the maximum, or excellence plus, level.

**Table of Contents****Outstanding Equity Awards at Fiscal Year-End 2007**

Name	Option Awards Equity Incentive Plan Awards:			Option Exercise Price (\$)	Option Expiration Date
	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Number of Securities Underlying Unexercised Options (#) Unearned		
Charles A. Carroll					
2004(1)	1,046,479	168,786	135,029	\$ 5.28	12/23/14
2005(2)	37,903	37,900		14.52	12/29/15
2007(3)	50,000	150,000		19.16	5/7/17
Lawrence M. Blackburn					
2004(1)	597,987	96,449	77,159	5.28	12/23/14
2005(2)	37,903	37,900		14.52	12/29/15
2007(3)	22,500	67,500		19.16	5/7/17
Ben D. Campbell					
2004(1)	224,247	36,168	28,934	\$ 5.28	12/23/14
2005(2)	18,951	18,950		14.52	12/29/15
2007(3)	8,750	26,250		19.16	5/7/17
Donald R. King					
2004(1)	224,247	36,167	28,934	\$ 5.28	12/23/14
2005(2)	18,951	18,950		14.52	12/29/15
2007(3)	8,750	26,250		19.16	5/7/17
William L. Topper					
2004(1)	119,598	19,290	15,432	\$ 5.28	12/23/14
2005(2)	18,951	18,950		14.52	12/29/15
2007(3)	6,250	18,750		19.16	5/7/17

- (1) 77.5% of the shares subject to these options were fully vested and exercisable as of December 31, 2007. The remaining 22.5% of the shares subject to these options would have vested annually over a one-year period beginning on December 31, 2007 as follows: (a) 12.5% of the shares would have fully vested on December 31, 2008; and (b) 10% of the shares would have vested to the extent Goodman Global, Inc. achieved certain annual performance measures, such that this 10% would have fully vested on December 31, 2008. If Goodman Global, Inc. did not achieve these performance measures, this portion of the options would have become fully vested on December 23, 2012. All of the outstanding options accelerated in connection with the closing of the merger on February 13, 2008.
- (2) 50% of the shares subject to these options were fully vested and exercisable as of December 31, 2007. The remaining 50% of the shares subject to these options would have vested in equal installments annually over a two-year period beginning on December 22, 2008, such that 100% of the shares subject to these options would have fully vested on December 22, 2009. All of these options accelerated in connection with the closing of the merger on February 13, 2008.
- (3) 25% of these time vesting options were vested as of December 31, 2007; they would have vested in equal 25% installments on each of the next three anniversaries of the grant date. All of these options accelerated in connection with the closing of the merger on February 13, 2008.

**Option Exercises**

None of our NEOs exercised options in 2007.



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**New Employment Agreements**

***Charles Carroll***

In connection with the closing of the merger on February 13, 2008, Merger Sub entered into a new employment agreement with Charles Carroll under which Mr. Carroll continued to serve as the Chief Executive Officer of Goodman Global, Inc. until June 30, 2008, or, if earlier, the date on which a suitable replacement commenced employment as our next Chief Executive Officer. Charles Carroll retired as our President and Chief Executive Officer effective April 21, 2008, the date on which our new President and Chief Executive Officer, David Swift, commenced employment. Mr. Carroll's employment agreement provides that he will remain as the Chairman of our Board after his service as our Chief Executive Officer ends, unless otherwise agreed. In the event Mr. Carroll is no longer serving as the Chairman of the Board, the agreement also provides that Mr. Carroll will be given the opportunity to serve as a non-executive employee for the period ending no earlier than June 30, 2010.

While employed as our Chief Executive Officer, Mr. Carroll received a base salary at the annual rate of \$1,073,900 and became eligible to earn a pro-rata annual bonus (based on the number of days Mr. Carroll served as our Chief Executive Officer) in a target amount equal to 100% of his base salary as Chief Executive Officer, with a maximum bonus opportunity equal to 481.4% of his base salary. For the period effective April 21, 2008 his base salary will be at the annual rate of \$150,000 and he will no longer be entitled to participate in our annual bonus program. During his service with us in any capacity, Mr. Carroll will be entitled to participate in our employee benefit plans on the same basis as those plans are generally made available to other similarly situated executives. Mr. Carroll's employment agreement was amended effective May 29, 2008 to provide that Mr. Carroll will be entitled to continued participation in the Company's group health plans until he reaches the age of 65, or if later, the qualifying age under Medicare, irrespective of his continued employment, provided he pays the premium up to the amount that would have been payable if such coverage were provided under COBRA.

In the event Mr. Carroll is terminated by us without cause, or resigns for good reason, we will provide him with payments totaling two times his base salary, plus one times his target bonus, over the two-year period following such termination, as well as a pro-rated annual bonus for the year of termination, payable at the time such payment would have otherwise been paid under the bonus program, and post-termination health insurance coverage. Pursuant to the employment agreement, Mr. Carroll has agreed not to disclose our confidential information at any time, and, for the period during which he provides services to us and for the two-year period thereafter, he has also agreed not to compete with us, interfere with our business, or solicit or hire our employees or customers.

In the event that any payment or benefit to be received under the employment agreement will trigger the imposition of an excise tax ( Excise Tax ) under Section 4999 of the Internal Revenue Code of 1986, as amended (the Code), then all payments will be reduced to the extent necessary so that the Excise Tax will not be imposed unless the amount of such reduction would equal or exceed 110% of the Excise Tax that would be imposed on such amounts.

***Lawrence Blackburn***

On February 13, 2008, Merger Sub also entered into a new employment agreement with Lawrence Blackburn, pursuant to which Mr. Blackburn will continue to serve as our and our Parent's Chief Financial Officer and as our and our Parent's Executive Vice-President. Mr. Blackburn became a Director of us and our Parent on April 21, 2008. Mr. Blackburn's employment agreement has an initial term of four years, which will renew for additional one-year periods until either party provides notice of non-renewal at least 180 days prior to the end of the then-current term. The agreement provides that while employed as our and our Parent's Chief Financial Officer, Mr. Blackburn will receive a base salary at the annual rate of \$446,800, subject to annual review and adjustment, and will be eligible to earn an annual bonus in a target amount equal to 75% of his base salary, with a maximum bonus opportunity equal to 387.5% of his base salary. The agreement further provides that during his employment with us, Mr. Blackburn will be entitled to participate in our employee benefit plans on the same basis as those plans are generally made to other similarly situated executives.

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In the event Mr. Blackburn is terminated by us without cause, or resigns for good reason, we will provide him with payments totaling two times his then-applicable base salary, plus one-times his target bonus, payable over the two-year period following such termination, as well as a pro-rated annual bonus for the year of termination, payable at the time such payment would have otherwise been paid had Mr. Blackburn's employment not terminated. Pursuant to his employment agreement, Mr. Blackburn has agreed not to disclose our confidential information at any time and, for the period during which he is employed by us and for a two-year period following termination of his employment, he has also agreed not to compete with us, interfere with our business, or solicit or hire our employees or customers.

In the event that any payment or benefit to be received under the employment agreement will trigger the imposition of Excise Tax, then all payments will be reduced to the extent necessary so that the Excise Tax will not be imposed unless the amount of such reduction would equal or exceed 110% of the Excise Tax that would be imposed on such amounts.

## **New Severance Agreements**

In connection with the closing of the merger on February 13, 2008, Merger Sub also entered into individual severance agreements with our other named executive officers, Messrs. Topper, Campbell and King. Each severance agreement has an initial term of four years and renews automatically for additional one-year periods until either party provides notice of non-renewal at least 90 days prior to the end of the then-current term. Each agreement provides for the payment of an annual base salary (currently \$385,670 for Topper, \$375,450 for Campbell, and \$339,200 for King), subject to annual review and adjustment, and each agreement also provides that the executive will be eligible to earn an annual bonus in a target amount equal to 75% of the executive's base salary, with a maximum bonus opportunity in an amount equal to 387.5% of the executive's base salary.

The severance agreements also provide that if the executive is terminated by us without cause or resigns for good reason, we will provide the executive with payments totaling one times the executive's then-applicable base salary, plus one times his bonus, payable over the two-year period following such termination, as well as a pro-rated annual bonus for the year of termination, payable at the time such payment would have otherwise been paid had the executive's employment not terminated. Each severance agreement further provides that the executive will not disclose our confidential information at any time and, for the period during which the executive is employed by us and for a period following termination of employment, the executive will not compete with us, interfere with our business, or solicit or hire our employees or customers.

## **Potential Payments Upon Termination or Change in Control under Pre-Existing Agreements**

As of the end of the 2007 fiscal year, we had the pre-existing employment agreements in place for Messrs. Carroll and Blackburn. As amended in 2006, each employment agreement provided that the executive would receive an amount equal to two times base salary and annual target bonus following the executive's termination of employment by Goodman Global, Inc. without cause or by the executive for good reason, as provided in the agreements, in addition to a pro-rated annual bonus for the year of termination. In the event of a change of control, Messrs. Carroll and Blackburn could resign for good reason and receive these amounts if the purchaser did not assume these severance provisions and if executive did not accept employment with such purchaser. Additionally, Mr. Carroll's employment agreement, as amended, provided that, following Mr. Carroll's termination of employment, Mr. Carroll and his eligible dependents would receive continued group health benefits through Mr. Carroll's attainment of age 65.

We had also entered into severance agreements with each of Ben D. Campbell, Donald R. King and William L. Topper, as well as with certain other of our executive officers. These severance agreements were in effect as of the end of the 2007 fiscal year. These severance agreements provided that the executive would receive an amount equal to his current base salary plus annual target bonus following the executive's termination of employment by Goodman Global, Inc. without cause or by the executive for good reason.

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Under the applicable agreement, the amounts that would have been payable on termination would have been payable for two years in the case of Messrs. Carroll and Blackburn and for one year in the case of the other named executive officers subject to severance agreements. Generally, the amounts would have been paid monthly, except that payment was required in a lump sum within 30 days if the executive were to have been terminated without cause or terminated his employment for good reason within two years following a change of control.

Payment of these amounts would have terminated under the agreements if the executive engaged in a competitive business, recruited or solicited employees, disclosed non-public information of Goodman, or disparaged Goodman, and was therefore subject to the executive's compliance with these provisions. The provisions regarding non-competition and non-solicitation of employees could have been altered or waived with the prior written consent of the Board or Parent's Compensation Committee.

As summarized above, following the closing of the merger, our named executive officers entered into new employment or new severance agreements, as applicable, and agreed to terminate the employment and severance agreements that were in place prior to the closing.

The amounts payable to the NEOs upon termination of employment (including termination following a change of control) are summarized in the table below, calculated on the basis of the agreements and arrangements that were in effect as of December 31, 2007 taking into account acceleration of vesting of all outstanding equity awards as contemplated by the merger agreement and the right to receive a pro-rated annual bonus.

**Potential Payments on Change of Control or Severance**

Name	Trigger	Salary \$	Bonus \$	Severance and Change of Control		Change of Control Vesting(1)	Total
				Pro-rated Annual Bonus	Medical Benefits		
Charles A. Carroll	Termination	\$ 2,147,800	\$ 2,147,800	\$ 2,306,008	\$	\$ 7,038,235	\$ 13,639,843
Lawrence M. Blackburn	Termination	893,600	670,200	751,608		4,086,598	6,402,006
Ben D. Campbell	Termination	361,350	271,013	607,873		1,584,969	2,825,205
Donald R. King	Termination	326,500	244,875	549,246		1,584,969	2,705,590
William L. Topper	Termination	371,170	278,378	624,395		959,500	2,233,443

- (1) The amounts in this column reflect vesting of time-vested options and performance-vested options held by Messrs. Carroll, Blackburn, Campbell, King and Topper upon a change of control, as if a change of control had occurred and the options had vested as of December 31, 2007, based upon our stock price at year-end.

**Equity Compensation Plan Information**

The following table provides information as of December 31, 2007 with respect to the shares of our common stock that could have been issued under our equity compensation plans as in effect on December 31, 2007.

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights(1)	Weighted Average Exercise Price of Outstanding Options, Warrants and Rights(1)	Number of Securities Remaining Available For Future Issuance Under Equity Compensation Plans
Equity compensation plans approved by security holders	5,212,875	\$ 8.25	1,437,676
Equity compensation plans not approved by security holders(2)			
<b>Total</b>	<b>5,212,875</b>	<b>\$ 8.25</b>	<b>1,437,676</b>

- (1) Includes 4,539,319 outstanding options issued under the 2004 Plan, 668,000 options to purchase common stock issued under the 2006 Incentive Award Plan, and 5,556 shares of restricted stock issued to our

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directors. Because restricted stock awards have no exercise price, they are not included in the weighted average exercise price calculation.  
 (2) All of our equity compensation plans were approved by our stockholders.

**Director Compensation**

Name	Fees Earned or Paid in Cash (\$)(1)	Stock Awards (\$)(5)	Option Awards (\$)(6)	Non-Equity Incentive Plan Compensation (\$)	All Other Compensation (\$)	Total (\$)
David Bechhofer(2)	\$ 68,932	\$ 47,314				\$ 116,246
Jeffrey Benjamin(2)	52,000	47,314				99,314
Laurence M. Berg(10)	57,000					57,000
Anthony M. Civale(10)	50,000					50,000
John B. Goodman(10)	60,298					60,298
John J. Hannan(3)(9)	51,000	17,571(7)				68,564
Steven Martinez(10)	57,000					57,000
David W. Oskin(9)	84,995	14,966(8)				99,953
James H. Schultz(3)(9)	73,173	17,571(7)				90,737
Michael D. Weiner(9)	55,493	14,966(8)				70,451
Charles A. Carroll(4)						

- (1) Fees earned or paid in cash consists of the following amounts: (a) an annual retainer of \$40,000, paid quarterly, (b) Board and Committee meeting fees of \$2,000 for each meeting attended by a director in person and \$1,000 for each meeting held telephonically, and (c) \$10,000 paid to the Chairman of the Audit Committee.
- (2) Messrs. Bechhofer and Benjamin were appointed to the Board of Directors in February 2007 and therefore received no compensation with respect to 2006.
- (3) Messrs. Hannan and Schultz were appointed to the Board of Directors in June 2006 and received retainer amounts on a quarterly basis thereafter.
- (4) Mr. Carroll is our President and Chief Executive Officer and receives no additional compensation for serving as a director. Mr. Carroll's compensation is described above under Executive Compensation Summary Compensation Table.
- (5) The amounts in this column reflect the expense recognized for financial statement reporting purposes for the year ended December 31, 2007, in accordance with FAS 123(R). The assumptions used in calculating these amounts under FAS 123(R) are set forth in Note 2 to our audited financial statements included elsewhere in this prospectus.
- (6) Stock options issued to Messrs. Berg, Civale, Goodman and Martinez in 2005 vested immediately. Accordingly, no amounts were recognized with respect to these options for financial statement reporting purposes for the year ended December 31, 2007, in accordance with FAS 123(R).
- (7) A restricted stock grant of 2,778 shares of common stock was made on June 30, 2006. These shares vested on June 30, 2007. These shares have an aggregate grant date fair value of \$42,170 under FAS 123(R).
- (8) A restricted stock grant of 2,778 shares of common stock was made on April 21, 2006. These shares will vest on April 11, 2007. These shares have an aggregate grant date fair value of \$59,866 under FAS 123(R).
- (9) The aggregate number of restricted stock awards outstanding and held by each of Messrs. Hannan, Oskin, Schultz and Weiner was 11,112 shares at December 31, 2007.
- (10) The aggregate number of stock options outstanding and held by each of Messrs. Berg, Civale, Goodman and Martinez was 121,284 options at December 31, 2007.

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### **Agreements with our New President and Chief Executive Officer**

Mr. Swift entered into an employment agreement with us (the Employment Agreement), effective as of April 21, 2008, pursuant to which Mr. Swift commenced serving as our and our Parent's President and Chief Executive Officer and as a member of our and our Parent's Board of Directors. Mr. Swift's employment agreement has an initial term of five years, which will renew for additional one-year periods until either party provides notice of non-renewal at least 180 days prior to the end of the then-current term. Mr. Swift's employment and related agreements are described in the section entitled "Certain Relationships and Related Party Transactions - Agreements with our New President and Chief Executive Officer."

### **Discussion of Director Compensation**

Following our initial public offering in April 2006, non-employee directors received an annual retainer fee of \$40,000, which is paid quarterly following appointment or election to the Board. In addition, the Chairman of the Audit Committee received an additional annual fee of \$10,000. Non-employee directors received a fee of \$2,000 for each board or committee meeting attended in person and a fee of \$1,000 for attendance at a Board or committee meeting held telephonically. In February 2007, each of Messrs. Bechhofer and Benjamin received restricted stock awards under our 2006 Incentive Award Plan upon their appointment to the Board of Directors that were valued at \$50,000. These restricted stock awards would have vested on the first anniversary of such director's appointment to our Board of Directors if they had not been accelerated earlier upon the consummation of the Merger.

All directors are reimbursed for reasonable out-of-pocket expenses incurred in attending meetings of the Board or committees and for other reasonable expenses incurred in connection with service on the Board and any committees. Each director will be fully indemnified by us for actions associated with being a member of our Board to the extent permitted under Delaware law, as provided in our amended and restated certificate of incorporation, our amended and restated bylaws and the indemnification agreements by and between us and each of our directors.

Employee directors such as Mr. Carroll, Mr. Swift and Mr. Blackburn do not receive compensation for service on our Board or committees. Mr. Carroll's compensation as our CEO is described in the Summary Compensation Table for NEOs.

### **Compensation Discussion and Analysis**

Our executive compensation program, including with respect to our named executive officers, is overseen and administered by the Compensation Committee of our Parent's Board of Directors (Parent's Board). Our Named Executive Officers are (1) our current chief executive officer, (2) our current chief financial officer, (3) each of our three other most highly compensated executive officers who were serving as executive officers at the end of December 31, 2007.

For 2007, our Board of Directors appointed a compensation committee consisting of Messrs. Martinez, Berg, Goodman and Oskin. None of our executive officers has served as a member of our Compensation Committee (or other committee serving an equivalent function) of any other entity, whose executive officers served as a director of our company or member of our Compensation Committee. Following the consummation of the merger, a new Compensation Committee of Chill Holdings, Inc., our Parent, was established, consisting of Erik D. Ragatz and Robert B. Henske.

For the 2007 fiscal year, the compensation committee included three independent directors as determined under the standards of the NYSE. The compensation committee administered Goodman Global, Inc.'s 2004 Stock Option Plan and 2006 Incentive Award Plan. The compensation committee reviewed the performance of our executive officers and key employees for 2007 and made recommendations to our Board regarding the

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compensation of our executive officers and other compensation arrangements. The Board reviewed and took action on the basis of the recommendations of the compensation committee.

Compensation committee meetings were regularly attended by the President and Chief Executive Officer and the Executive Vice President, Human Resources. On a regular basis, the compensation committee also met in executive session. The Executive Vice President of Human Resources supported the compensation committee in its duties and, along with the President and Chief Executive Officer, was delegated authority to fulfill certain administrative duties regarding the compensation programs. Our Chief Executive Officer provided recommendations to our compensation committee and participated in discussions and evaluations regarding the compensation of the other NEOs.

### ***Objectives of Compensation Programs***

In 2007, we compensated our senior executives, including the five most highly compensated executive officers (the named executive officers, or NEOs), at levels we believed to be competitive within the HVAC industry and companies from similar durable goods manufacturing businesses of comparable revenue ranges. Our primary objective for executive compensation in 2007 was to ensure our ability to continue to retain our senior level executives, as well as to attract, retain and motivate the management team required to lead the Company in achieving its vision and mission while supporting our core values in a highly competitive marketplace.

Our business strategy depends to a significant degree upon its executive officers and key employees and their relationships with distributors. Therefore, we seek to retain our senior executives over the long-term and believe that continuity of management is in the best interests of our shareholders.

We designed our executive compensation programs to provide a competitive base salary for our NEOs as well as cash and long-term equity incentives. Our executive compensation for 2007 was determined after our IPO, and we determined executive compensation with a view to each NEO's past compensation levels as well as our future business strategy. The total compensation and benefits package provided to our NEOs in 2007 was designed to be competitive and to exceed median market compensation for talented and experienced senior executives.

Compensation paid to our former President and Chief Executive Officer was materially greater than the compensation paid to our other NEOs to reflect the primary differences in the scope of job responsibility and to include his role as Chairman of the Board. Compensation payable to our new President and Chief Executive Officer continues to be materially different from the compensation paid to our other NEOs to reflect those same differences in the scope of job responsibility, although Mr. Swift does not also serve in the capacity of Chairman. Our pay practices are reflective of competitive market data, which reflect competitive pay practices found among companies in our specific industry as well as general industry. In 2007, we engaged Hewitt Associates, an outside consultant, to assist us with compiling competitive market data.

### ***Compensation Philosophy***

Our overall compensation philosophy is to use straightforward compensation programs that offer appropriate incentives to our executives, while providing transparency to our shareholders. In implementing this philosophy, we have not emphasized perquisites, personal benefits, defined benefit plans or supplemental plans for executives. For 2007, our executive compensation emphasized cash and equity compensation, and consisted primarily of the following:

base salary to provide stable income to our NEOs during the current year,

annual performance-based cash incentives tied to our profitability, which bonus awards were granted under our stockholder-approved 2006 Incentive Award Plan, and

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equity awards in the form of additional stock options which were granted under the 2006 Incentive Award Plan to provide retention benefits and long-term incentives to continue to build share price and shareholder value.

For 2007, as for prior years, our former Compensation Committee emphasized a mix of base salary and cash incentives. Equity grants that were made prior to our 2006 IPO continued to vest. A significant proportion of each NEO's compensation for 2007 was at risk incentive compensation that depended upon our profitability for the year. In addition, additional option grants were made in May 2007 in order to encourage the achievement of long-term business objectives that enhance stock price and shareholder value on a continuing basis.

### ***Competitive Analysis***

For 2007, our compensation committee had engaged Hewitt Associates (the Compensation Consultant) to provide an assessment of our compensation programs. The compensation committee reviewed a report prepared by the Compensation Consultant regarding executive compensation paid by a selected group of companies against which our compensation committee believed we compete for executive talent and stockholder investment. Our compensation committee considered composite measures of executive compensation derived from three comparator groups with comparable revenue ranges: durable goods manufacturers, general industrial companies and companies with significant venture capital investors. The twenty-one companies selected by the Compensation Consultant for purposes of this competitive market analysis were as follows: W.W. Grainger, Inc., Avery Dennison Corporation, USG Corporation, Temple-Inland Inc., Cooper Industries, Inc., BorgWarner Inc., Armstrong World Industries, Inc., Lennox International Inc., Vulcan Materials Company, Steelcase Inc., Walter Industries, Inc., Packaging Corporation of America, Donaldson Company, Inc., Sauer-Danfoss Inc., H. B. Fuller Company, Tupperware Corporation, Valmont Industries, Inc., Brady Corporation, Milacron Inc., Graco Inc. and Andersen Corporation (the Peer Companies).

The compensation of each of the NEOs was compared against competitive market ranges derived from the compensation programs of the Peer Companies for executives with comparable positions and job responsibilities. As noted above, the analysis was prepared by the Compensation Consultant and reviewed by the compensation committee. As noted above, the compensation components reviewed for each position were base salary, annual cash bonus and long-term incentives and benefits, both individually and in the aggregate. Although the survey data was used as an important measure for determining competitive levels of compensation for our NEOs, our compensation committee did not benchmark the compensation of our NEOs against the Peer Companies. Rather, the survey data was used as a guide, such that the compensation committee exercised its discretion in setting both the individual compensation components and the total pay of each of our NEOs at levels that were commensurate with their specific position and job responsibilities, taking into account the need to retain and motivate our NEOs to achieve superior levels of performance. The compensation of our NEOs was set at levels that were above the 50<sup>th</sup> percentile (and in some cases above the 75<sup>th</sup> percentile) as compared to the Peer Companies.

### ***Compensation Programs***

***Design of Compensation Programs.*** Our compensation programs in 2007 were designed to effectively retain our NEOs and continue to build the Company in a stable management environment as well as attract, retain and motivate highly talented individuals to lead the Company in achieving its vision and mission in a very competitive marketplace. Specifically,

base salary was designed at levels to attract, retain and motivate employees capable of managing Goodman's operation as a public company,

annual cash incentives based on pre-determined performance targets were designed to reward execution of Goodman's strategy and achievement of profitability objectives, and



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equity awards in the form of stock options (which were granted in May 2007 under our shareholder-approved 2006 Incentive Award Plan) were designed to provide additional retention benefits and long-term incentives to build share price and shareholder value.

***Impact of Performance on Compensation.*** A significant proportion of each NEO's compensation in 2007 was at risk and depended on our performance. On February 5, 2007, the Board adopted our 2007 Performance Bonus Award Program under the 2006 Incentive Award Plan (the 2007 Bonus Program). Under the 2007 Bonus Program, each NEO's annual cash incentives were tied to pre-established EBITDA targets which were designed to emphasize profitability. The EBITDA targets provided incentives to increase revenues and also to control costs, to the degree that costs were within the control of the executive officers. As discussed in greater detail below under the heading Annual Cash Incentive and Description of Performance Metrics, cash incentive compensation earned by the NEOs in 2007 exceeded target plus levels established under the 2007 Bonus Program, based on our EBITDA for the year.

With respect to equity-based incentive awards, any increase to the stock price as a result of the efforts of the NEOs to improve Goodman's performance also increased the value of the NEOs' stock options, and therefore rewarded the NEOs for contributing to shareholder value. In addition, half of the stock options granted to our NEOs in 2004 are performance-based options, for which vesting could be accelerated depending on Goodman's achievement of annual EBITDA and ROIC targets, as determined by our Board of Directors (see further description of these performance metrics below.)

### ***Elements of Compensation***

As discussed above, compensation paid or awarded to the NEOs during 2007 included base salary, an annual cash incentive award and stock options, and as further described below.

### ***Base salary of the NEOs***

Each NEO received a significant portion of his total compensation in the form of base salary. The salary component was designed to provide the executives with a stable income and to attract and retain talented and experienced executives capable of managing our operations and strategic growth as a public company.

We determined the salary for each NEO based on the salary of comparable positions in the marketplace and adjusted this amount to reflect the individual's experience, performance, potential contributions to us and ability to meet our anticipated future needs. The base salary for Mr. Carroll and the other NEOs was increased effective as of March 1 and April 1, 2007, respectively, based on our annual review of these factors by our Compensation Committee and our Board (see Executive Compensation Summary Compensation Table for a summary of the actual increases provided to each of our NEOs.) Base salaries were determined utilizing the market study prepared by the Compensation Consultant, as discussed in the section entitled Competitive Analysis above. The base salaries for 2007 were set after review of the market range for comparable positions at the Peer Companies, but also taking into consideration notable differences in the corresponding responsibilities of each of our NEOs and other competitive factors, including total compensation opportunity.

In connection with the merger, the NEOs as well as other of our executive officers negotiated new employment arrangements with our controlling stockholders, which became effective on February 13, 2008, upon the closing of the merger. Pursuant to those arrangements, the salaries and the executive positions of each of our NEOs and generally remained unchanged for the 2008 fiscal year, as they were viewed to be competitive for the current year and were sufficient to continue to retain the senior management team going forward.

**Table of Contents****Annual Cash Incentive and Description of Performance Metrics**

*Cash Incentive Awards.* A significant proportion of each NEO's cash compensation was paid as a cash incentive award under the 2007 Bonus Program and depended upon Goodman's profitability, as measured by EBITDA for the 2007 fiscal year. The bonus payment was at risk and was designed to reward the executives for reaching pre-established levels of profitability. Awards were structured to be paid based on achieving levels threshold, target, target plus, superior, excellence or excellence plus levels for EBITDA, which comprised 95.2%, 100%, 104%, 108%, 112% and 116% of the target, respectively. We set the EBITDA goals at levels that reflected our internal business plan at the time the awards were established. The EBITDA target level for our cash incentive award was set at \$250 million for 2007 and required a challenging but achievable level of financial performance. The highest specified level, excellence plus (at EBITDA of \$290 million for 2007), represented truly exceptional performance beyond reasonably likely levels of achievement, and we have never achieved this level of performance. Historically, we have generally achieved performance between the target and target plus levels.

In setting the range of bonus awards to our NEOs, we considered the potential bonuses available for comparable positions in the marketplace and the total compensation payable for such comparable positions, including other elements of compensation and perquisites provided. The range of payouts was based on a multiple of each NEO's base salary for the 2007 fiscal year. The range of payouts in dollars, assuming EBITDA goals were met at threshold, target or excellence plus levels for 2007, is indicated in the Grants of Plan-Based Awards Table.

The table below summarizes the possible bonus opportunities and actual bonuses paid in 2007 for our NEOs as a percentage of base salary based on the level of achievement of an EBITDA goal of \$250.0 million:

	Threshold Level	Target Level	Target Plus Level	Superior Level	Excellence Level	Excellence Plus Level	Actual
	<i>As a percentage of EBITDA Target of \$250.0 million</i>						
	95.2%	100.0%	104.0%	108.0%	112.0%	116.0%	106.0%
	<i>(in \$ millions)</i>						
	\$ 238.0	\$ 250.0	\$ 260.0	\$ 270.0	\$ 280.0	\$ 290.0	\$ 265.1
	<b>Bonus Opportunity as a percentage of base salary</b>						
<b>NEO</b>							
Charles A. Carroll	37.5%	100.0%	162.5%	268.8%	375.1%	481.4%	216.7%
Lawrence M. Blackburn	25.0	75.0	125.0	212.5	300.0	387.5	169.6
Ben D. Campbell	25.0	75.0	125.0	212.5	300.0	387.5	169.6
Donald R. King	25.0	75.0	125.0	212.5	300.0	387.5	169.6
William L. Topper	25.0	75.0	125.0	212.5	300.0	387.5	169.6

In 2007, we achieved EBITDA of \$265.1 million, which was greater than the target plus level but less than the superior level. As a result, Mr. Carroll was awarded a bonus of 216.7% of his base compensation or \$2,306,008, Mr. Blackburn was awarded a bonus in an amount equal to 169.6% of his base compensation, or \$751,608 and our other NEOs were likewise awarded a bonus equal to 169.6% of their base compensation, or \$624,395, \$607,873 and \$549,246 respectively for each of Messrs. Topper, Campbell and King.

On March 12, 2008, Parent's Board adopted a new bonus plan arrangement for our NEOs for the 2008 fiscal year. The structure of the bonus program for 2008 is generally similar to the structure for the 2007 fiscal year, except that Mr. Carroll's annual bonus payment will be pro-rated through April 21, 2008, the date his retirement as President and Chief Executive Officer became effective. As was the case for 2007, awards for 2008 are structured to be paid based on achieving a threshold, target, target plus, superior, excellence or excellence plus level of performance, which comprises 93.1%, 100%, 106.9%, 110.3%, 113.8% and 117.2% of the EBITDA target, respectively.

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In 2008, the range of possible bonus opportunities are expressed as a percentage of base salary with incrementally higher payout opportunities at the foregoing EBITDA performance levels of threshold, target, and maximum which are expressed as a percentage of the plan target award. The ranges of bonus opportunities for our NEOs were determined based on market data provided by our external consultant for comparable positions in the external marketplace, using the 75th percentile as a guideline, as well internal equity differentiation based on the scope and complexity of each position. The table below summarizes the range of bonus opportunities for 2008 for our NEOs as a percentage of base salary, based on the level of achievement of an EBITDA goal:

	<b>Threshold Level</b>	<b>Target Level</b>	<b>Target Plus Level</b>	<b>Superior Level</b>	<b>Excellence Level</b>	<b>Excellence Plus Level</b>
	93.1%	100.0%	106.9%	110.3%	113.8%	117.2%
	<i>As a percentage of EBITDA Target</i>					
	<b>Bonus Opportunity as a percentage of base salary</b>					
<b>NEO</b>						
David L. Swift	35.6%	95.0%	154.4%	255.4%	356.3%	457.3%
Lawrence M. Blackburn	25.0	75.0	125.0	212.5	212.5	212.5
Ben D. Campbell	25.0	75.0	125.0	212.5	212.5	212.5
Donald R. King	25.0	75.0	125.0	212.5	212.5	212.5
William L. Topper	25.0	75.0	125.0	212.5	212.5	212.5
Charles A. Carroll(1)	37.5	100.0	162.5	268.8	268.8	268.8

(1) To be pro rated through April 21, 2008, the effective date of Mr. Carroll's retirement as our and our Parent's President and Chief Executive Officer.

Bonus opportunities for our President and Chief Executive Officer are materially different from the opportunities for our other NEOs to reflect the primary differences in the scope of job responsibility. In addition, the bonus opportunities of Mr. Carroll, our former President and Chief Executive Officer, were intended to reflect his additional role as Chairman of the Board. These pay practices are reflective of competitive market data, which reflects competitive pay practices found among companies in our specific industry as well as general industry.

Parent's 2008 Annual Incentive Compensation Plan has been filed as an exhibit to the registration statement relating to this prospectus. Pursuant to the bonus award agreements, each of our NEOs agreed that the maximum payout available for the 2008 year will not exceed the payout available at the superior level of performance under the 2008 Annual Incentive Compensation Plan.

*Performance Metrics.* Two financial metrics are commonly referenced in defining company performance for compensation of NEOs. The primary metrics used are EBITDA and, to a lesser extent, ROIC. These metrics and their use in annual and long-term incentive programs are described below.

**EBITDA:** EBITDA as used in our executive compensation programs through 2007 was equal to consolidated net income before interest, taxes, depreciation and amortization as reflected in Goodman's audited consolidated financial statements for such period. Consolidated net income was determined in accordance with generally accepted accounting principles except that gains and losses from extraordinary, unusual or nonrecurring items could be excluded in the discretion of the Compensation Committee of the Board. EBITDA was used as the performance metric for purposes of the annual cash incentive award for 2007 and for accelerated vesting of one-half of the stock options granted to NEOs in 2004. For 2008, a similar approach has been utilized except that the EBITDA metric was generally made consistent with the definition of EBITDA in our credit arrangements.

**ROIC:** Return on Invested Capital (ROIC) measures stockholder value creation. It is a non-GAAP measure that supplements traditional accounting measures to evaluate a return on the capital invested in the business. We adopted ROIC as a performance measure under our bonus program and equity

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incentive program as an incentive for senior management to improve our earnings through the efficient allocation of capital. ROIC was a compensation metric used, together with EBITDA, for accelerating vesting of one-half of the stock options granted in 2004.

The ROIC metric has not been used in structuring the executive compensation arrangements for the 2008 fiscal year.

The performance metrics established by our Compensation Committee for each calendar year are based upon assumptions about the future business of our company as of the date the goal is established. The annual cash incentive plan provides that in the event that, after the date the performance metrics are fixed, the Compensation Committee determines, in its sole discretion after consultation with our Chief Executive Officer, that any unusual event, unusual or nonrecurring transaction or certain other extraordinary events affecting our company occur, such that an adjustment is determined by the Compensation Committee to be appropriate, then the Compensation Committee may adjust the performance metrics to reflect the projected effect of such transactions or events. Except as required by applicable law, there is no policy that would allow us or our Parent to recover awards or payments paid if the company performance metrics upon which they are based are restated or otherwise adjusted in a manner that would reduce the size of an award or payment.

*Discretionary Bonuses.* In addition, our Parent's Chief Executive Officer has the discretion to pay to some or all of the participants in the cash bonus plan (other than the Chief Executive Officer) for a calendar year incentive compensation in an aggregate amount not to exceed \$750,000, without regard to EBITDA or ROIC for such year and to allocate the amount of such incentive compensation among the participants and employees who do not formally participate in the cash bonus plan, as the Chief Executive Officer and/or the Board of Directors determines in his or its discretion. In 2007, none of our NEOs received any portion of the discretionary bonus pool.

### ***Long-Term Incentives Stock Options***

During the 2007 fiscal year, we made equity awards to our management team under our stockholder-approved 2006 Incentive Award Plan. We granted 385,000 stock options to our NEOs in 2007. Each NEO also continued to vest stock option grants made in December 2004 and in December 2005 under the 2004 Stock Option Plan, before our initial public offering. These earlier stock options were designed to reward the NEO for improving our performance and, as a result, increasing stock price for the benefit of shareholders. Half of the stock options granted in 2004 were performance-based options, for which vesting could be accelerated by our achievement of annual EBITDA and ROIC targets established in 2004. Our Board accelerated 20% of the total performance-based options previously granted to our NEOs in connection with the completion of our initial public offering in 2006. These pre-determined EBITDA and ROIC targets were based on revenue and expense assumptions about the future business of Goodman as of the date the options were granted and were subject to adjustment by the Board in some circumstances (see description above of these financial metrics). For the 2004 performance-based options, the pre-established ROIC performance target of 12.8% was met in 2007. In addition, we achieved 2007 EBITDA of \$265.1 million. As a consequence, an additional 20% of the performance-vested options granted to our NEOs vested for the 2007 fiscal year.

In the event that, after the date the performance metrics were set in 2004 under the 2004 Stock Option Plan, the Compensation Committee determined, in its sole discretion after consultation with our Chief Executive Officer, that any unusual event, unusual or nonrecurring transaction or certain other extraordinary events affecting our company occurred, such that an adjustment was determined by the Compensation Committee to be appropriate, then the Compensation Committee could adjust the performance metrics to reflect the projected effect of such transactions or events or could decide to vest or accelerate performance-based options. Except as required by applicable law, there is no policy that would allow us or our Parent to recover awards if the company performance metrics upon which they were based are restated or otherwise adjusted in a manner that would reduce the size of an award.

*Option Grants in 2004:* In December 2004, we granted non-qualified options to purchase our common stock to certain management employees. The exercise price of these options was \$5.28 per share (which was equal to

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the purchase price paid in the acquisition of Goodman in that year). All or a portion of the options could have become vested and exercisable earlier than scheduled upon certain sales of the assets or capital stock of Goodman (see Option Acceleration in Connection with Merger, below).

One-half of the options granted to management employees were time vesting options that would have become vested and exercisable in equal annual installments on each December 31 beginning in 2005 and ending in 2008, subject to continued employment.

The other half of the options granted to management employees were performance vesting options that would have become vested and exercisable on the eighth anniversary of the date of grant, subject to continued employment. However, an installment of 20% of each performance vesting option (i.e., 10% of the total shares subject to the non-qualified stock option) was eligible to become vested and exercisable with respect to each of the fiscal years 2005 through 2008 if we attained certain financial performance targets tied to EBITDA and ROIC (the financial metrics described above). As a result of the completion of our initial public offering, 10% of the options vested, and the Board of Directors determined that vesting requirements were met with respect to 2005, 2006 and 2007.

*Option Grants in 2005.* In December 2005, we granted additional non-qualified stock options to our NEOs and to certain management employees at an exercise price of \$14.52 per share. These options were all time vesting options that generally would have become vested and exercisable in four equal annual installments on each December 22, beginning in 2006 and ending in 2009, subject to continued employment. The maximum term of these options was ten years.

*Option Grants in 2007.* In 2007, as part of the annual review of our equity compensation program, long-term incentive awards in the form of stock option grants were made to our NEOs on the basis of their job responsibilities and potential for individual contribution, with reference to the levels of total compensation (total cash compensation plus the value of long-term incentives and other benefits) for executives at the Peer Companies. In granting these option awards, the compensation committee also considered the size and value of previous equity grants made to each of our NEOs, as well as the level of total cash compensation provided through each executive's base salary and bonus opportunity. As with the determination of base salaries and annual cash incentives, the compensation committee exercised its judgment and discretion in view of the criteria discussed above in the section entitled Competitive Analysis and its general policies.

In light of the above, we granted additional non-qualified stock options to our NEOs and to certain management employees in May 2007 an exercise price of \$19.16 per share, which was the closing price of our common stock in the date before the date of grant. All of the 2007 grants were time-vesting options, which vested in equal annual installments of 25% over a four-year period.

*Option Acceleration in Connection with the Merger.* All of the outstanding time vesting options granted in 2004 and 2005 automatically accelerated in full upon the closing of the merger; additionally, our Board exercised its discretion to accelerate the remaining unvested portion of the performance vesting options, as well as the time vesting options granted in 2007. Other than options that were subject to option rollover agreements (see Equity Contribution Agreements, below), all of the options outstanding at the time of the merger were canceled and converted into the right to receive an amount in cash, less applicable tax withholding and without interest, equal to the product of (x) the number of shares of our common stock subject to each option as of the effective time of the merger multiplied by (y) the excess of the merger consideration over the exercise price per share of common stock under such option. On February 13, 2008, Parent's Board adopted a new equity incentive plan to replace our two pre-existing equity incentive plans, as described in greater detail below under New Equity Incentive Arrangements.

***Personal Benefits and Perquisites***

The NEOs did not receive any perquisites and personal benefits in 2007 other than those broadly available to all employees. We emphasize cash compensation and equity compensation, and therefore perquisites and personal benefits constituted an immaterial portion of each NEO's total compensation.

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### ***Historical Employment Agreements***

***Employment Agreements.*** Through the closing of the Merger, we had employment agreements in place with Messrs. Carroll and Blackburn. The employment agreements each had an initial term of three years, with automatic extensions of one year each unless notice was given by either party at least 180 days prior to expiration.

The employment agreements provided for the payment of an annual base salary for Mr. Carroll and Mr. Blackburn, and for annual target bonuses that were payable in the event that certain financial and other performance targets were met.

Under the agreements, the executives were each granted a non-qualified stock option under the 2004 Stock Option Plan to purchase shares of our common stock.

As amended in 2006, each of the employment agreements provided that the executive would receive an amount equal to two times base salary and annual target bonus following the executive's termination of employment under certain circumstances, as well as a pro-rated annual bonus for the year of termination.

Each of the employment agreements also contained restrictive covenants providing that the executive would be subject to certain non-competition and non-solicitation restrictions for two years following the executive's termination of employment.

Additionally, Mr. Carroll's employment agreement, as amended, provided that, following Mr. Carroll's termination of employment under certain circumstances, Mr. Carroll and his eligible dependents would receive continued group health benefits until Mr. Carroll reached age 65, or the qualifying age under Medicare, if later.

***Severance Agreements.*** Through the closing of the Merger, we had severance agreements with several of our executive officers, including Ben D. Campbell, Donald R. King and William L. Topper.

The severance agreements generally had an initial term of two years with automatic extensions of one year each unless notice was given by either party at least 90 days prior to expiration of the term.

As amended in 2006, each severance agreement provided for the payment of one times base salary plus an annual target bonus following the executive's termination of employment under certain circumstances.

***Non-Competition Agreements.*** Through the closing of the Merger, we had non-competition agreements with a number of our executive officers, including Ben D. Campbell, Donald R. King and William L. Topper. These non-competition agreements provided that each executive would be subject to certain non-solicitation and non-competition restrictions for a period of two years following the executive's termination of employment.

**Table of Contents*****Transaction Bonus and Equity Rollover Incentive***

Upon the consummation of the Merger, certain members of senior management received transaction bonuses equal to 75% of their current base salary, totaling more than \$3,202,110 in the aggregate. The transaction bonuses paid to our named executive officers are set forth in the table below. In addition, certain members of senior management were given a rollover incentive bonus payment equal to 100% of their current base salary, totaling not more than \$4,269,480 in the aggregate. The rollover incentive bonuses paid to our named executive officers are also set forth in the table below.

<b>Executive Officers:</b>	<b>Transaction Bonus Paid Upon Consummation of the Merger</b>	<b>Equity Rollover Incentive Paid Upon Consummation of the Merger</b>
Charles A. Carroll	\$ 805,425	\$ 1,073,900
Lawrence M. Blackburn	335,100	446,800
Ben D. Campbell	271,013	361,350
Donald R. King	244,875	326,500
William L. Topper	278,378	371,170

***New Employment and Severance Arrangements***

Upon the consummation of the Merger, Merger Sub entered into new employment agreements with Messrs. Carroll and Blackburn, and new severance agreements with all our executive officers, including Ben D. Campbell, Donald R. King and William L. Topper. In general, the agreements provided for substantially similar levels of base salary and bonus opportunities, and similar severance provisions as compared with the employment and severance agreements in effect prior to the closing of the merger. The specific terms of the new agreements are set forth above under Executive Compensation New Employment Agreements and Executive Compensation New Severance Agreements, respectively.

***Equity Contribution Agreements***

Prior to the closing of the merger, Parent entered into equity contribution agreements with each of our named executive officers. Pursuant to the terms of these agreements, each executive committed to acquire shares of common stock of Chill Holdings, Inc., our Parent, at closing, by either transferring the number of shares of Goodman Global, Inc. common stock having a value equal to an agreed upon amount (\$10,000,000 in the case of Carroll, \$8,771,000 in the case of Mr. Blackburn, \$3,736,000 in the case of Mr. Campbell, \$2,405,000 in the case of Mr. Topper, and \$3,687,000 in the case of Mr. King) or using cash proceeds from the transaction equal to 90% of such agreed upon amount. At closing, each of the executives purchased that number of shares of Parent stock with the values indicated below at \$25.60 per share, which was the price other stockholders paid per share of Goodman Global, Inc. common stock in the Merger.

<b>Executive</b>	<b>Value of Shares Rolled</b>
Charles A. Carroll	\$ 10,000,000
Lawrence M. Blackburn	8,718,208
Ben D. Campbell	3,736,000
Donald R. King	3,687,000
William L. Topper	2,405,000

The shares so acquired by each of our NEOs are subject to the terms and conditions of the Management Stockholders Agreement, described under the section entitled Certain Relationships and Related Party Transactions Management Stockholders Agreement. To the extent that an executive did not own a sufficient number of shares to cover his committed amount, each of the equity contribution agreements also provided that the executive would be able to satisfy such shortfall by rolling over options to acquire shares of our common stock into options to acquire shares of common stock of Parent. As Mr. Blackburn did not have a sufficient number of shares to cover his committed amount, he entered into an option rollover agreement with Parent at

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closing, pursuant to which he rolled over an option to acquire shares of our common stock having an intrinsic value of approximately \$53,000 (i.e., the excess of the value of the shares subject to the option over the aggregate exercise price for such shares), into an option to acquire shares of Parent common stock having substantially the same intrinsic value. The exercise price for each rollover option was set at \$2.07 per share, such that Mr. Blackburn received an option over 6,659 shares of Parent common stock. The rollover options, which became vested in full at closing, are generally subject to the same terms and conditions under which they were originally granted; however, any shares acquired pursuant to the exercise of such options will be subject to the terms of the Management Stockholders Agreement.

### ***Timing of Equity Awards***

Equity awards were granted to our NEOs in December 2005 before our IPO, and no grants were made in 2006. For 2007, our practice was to make any grants of equity awards during the period after the release of earnings, with an exercise price equal to the closing market price on the day before the grant. Options under the new equity incentive plan, described below, were granted at closing at an exercise price of \$10.00 per share, which is equal to the price at which our current stockholders subscribed for common stock of Parent at closing.

### ***New Equity Incentive Plan***

The following is a summary of the material terms and conditions of the 2008 Chill Holdings, Inc. Stock Incentive Plan (the 2008 Plan ). This summary is qualified in its entirety by reference to the terms of the 2008 Plan, a copy of which is attached as exhibit the registration statement relating to this prospectus.

The Board of Directors of Parent adopted the 2008 Plan on February 13, 2008; the Plan obtained stockholder approval on the same date. The 2008 Plan is a comprehensive incentive compensation plan which permits us to grant equity-based compensation awards to employees and consultants of Parent and its subsidiaries. The purpose of the plan is to attract, motivate and retain such persons, to encourage stock ownership by such persons, thereby aligning their interest with those of our stockholders and to provide compensation opportunities to reward superior performance.

Awards under the 2008 Plan may be in the form of stock options (either incentive stock options or non-qualified stock options) or other stock-based awards, including restricted stock purchase awards, restricted stock units and stock appreciation rights. The following is a summary of the principal types of awards available under the plan.

**Stock Options.** Stock options represent the right to purchase shares of Parent common stock within a specified period of time at a specified price. The exercise price for a stock option will be not less than 100% of the fair market value of the common stock on the date of grant. Stock options will have a maximum term of ten years from the date of grant. Stock options granted may include those intended to be incentive stock options within the meaning of Section 422 of the Code.

**Restricted Stock and Restricted Stock Units.** Restricted stock is a share of Parent common stock that is subject to a risk of forfeiture or other restrictions that will lapse subject to the recipient's continued service or the attainment of performance goals. Restricted stock units represent the right to receive shares of Parent common stock in the future, with the right to cash or future delivery of the shares also subject to the recipient's continued service or the attainment of performance goals.

**Stock Appreciation Rights.** Stock appreciation rights entitle the holder upon exercise to receive shares of Holdings common stock having a value equal to the excess of (i) the value of the number of shares with respect to which the right is being exercised (which value is based on fair market value at the time of such exercise) over (ii) the exercise price applicable to such shares. The exercise price for a stock appreciation right will be not less than 100% of the fair market value of Parent common stock on the date of grant.



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*Other Stock-Based Awards.* Parent’s Compensation Committee will be authorized to grant awards in the form of other stock-based awards, as deemed to be consistent with the purposes of the 2008 Plan. Such awards may be settled in cash, shares or a combination of cash and shares.

The maximum number of shares reserved for the grant or settlement of awards under the 2008 Plan is 6,734,923 shares of Parent, subject to adjustment in the event of an extraordinary dividend or other distribution, recapitalization, stock split, reorganization, merger, consolidation, spin-off, combination, repurchase or share exchange or other similar corporate transaction. Any shares subject to awards which are cancelled, forfeited, reacquired or repurchased before vesting under the 2008 Plan will again be available for grants under the 2008 Plan. In the event of a change in control, Parent’s Compensation Committee will have the discretion to accelerate all outstanding awards, cancel awards for fair value, provide for the issuance of substitute awards and/or provide award holders an opportunity to exercise their awards prior to the occurrence of the change in control transaction.

Parent’s Compensation Committee administers the 2008 Plan. Parent’s Compensation Committee has the ability to: select individuals to receive awards; select the types of awards to be granted; determine the terms and conditions of the awards, including the number of shares, the purchase price of the awards, and restrictions and performance goals relating to any award; establish the time when the awards and/or restrictions become exercisable, vest or lapse; determine whether options will be incentive stock options; and make all other determinations deemed necessary or advisable for the administration of the plan. Parent’s Compensation Committee may grant awards which, in the event of a change in control of Parent, become fully vested and exercisable.

Under the 2008 Plan, awards are generally non-transferable other than by will or by the laws of descent and distribution.

Parent’s Board of Directors may amend or discontinue the 2008 Plan, but no amendment or discontinuation will be made that would materially impair the rights of a participant under any award granted without such participant’s consent. In addition, stockholder approval may be required with respect to certain amendments due to the requirements of applicable law. The 2008 Plan, unless sooner terminated by Parent’s Board of Directors, will remain in effect through the tenth anniversary of its adoption.

All options under the 2008 Plan have been granted at a strike price equal to \$10.00 per share, which is the subscription price for each share of Parent common stock paid by our current controlling stockholders at closing. Options granted under the 2008 Plan to our NEOs have generally consisted of both time vesting and performance vesting options, except that only time vesting options were granted to Mr. Carroll in light of the nature of his ongoing employment relationship with us, since he is expected to continue to serve as our CEO only until a replacement is found.

The following non-qualified (*i.e.*, non-statutory) option grants were made to our NEOs on February 13, 2008:

<b>Named Executive Officer</b>	<b>Time-vesting Options</b>	<b>Performance-vesting Options</b>
Charles A. Carroll	431,035	
Lawrence M. Blackburn	581,897	387,932
Ben D. Campbell	202,048	134,698
Donald R. King	202,048	134,698
William L. Topper	202,048	134,698

For all of our NEOs except Mr. Carroll, the time vesting options will vest as to 25% of the award on the first anniversary of the grant date (February 13, 2008), and on each of the following three anniversaries thereafter, subject to the optionholder’s provision of continued services. With respect to Mr. Carroll’s options, the first grant of 269,397 options vests in equal installments of 33-1/3% on June 30 of each of 2008, 2009 and 2010, provided

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that Mr. Carroll continues to provide services to us. Additionally, Mr. Carroll received a second time vesting award of 161,638 options, which award will vest as to 25% on each of the first four anniversaries of the closing date, so long as Mr. Carroll continues to serve as Chairman of our Board. The performance vesting options granted to each of our named executive officers except Mr. Carroll will vest as to 20% of the option if pre-established EBITDA performance targets are achieved or exceeded in each of our fiscal years 2008 through 2012 inclusive. The EBITDA targets were established in a similar manner as described above under the heading Annual Cash Incentive and Description of Performance Metrics Performance Metrics, and are based on the Consolidated EBITDA as such term is defined under our credit agreements. The EBITDA targets were established based on our operating business plan over the next five years and were designed to represent a challenging but achievable level of performance. In the event that a performance target is missed in a given fiscal year, but the performance target for the following fiscal year is achieved, the tranche of the performance option that did not vest during the preceding fiscal year will also become vested. The performance targets are subject to adjustment under certain circumstances such as corporate acquisitions and divestitures. Under the terms of the option grant agreements, both time vesting and performance vesting options will accelerate in full upon the occurrence of a change in control transaction. All of the options have a 10-year term and may be exercised by way of a cashless exercise unless such exercise would result in adverse accounting treatment or would be prohibited by the terms of applicable financing arrangements.

### *Impact of Tax and Accounting Rules*

**Section 162(m).** Section 162(m) of the Code, places a limit of \$1,000,000 on the amount of compensation that may be deducted by us in any year with respect to the NEOs unless the compensation is performance-based compensation as described in Section 162(m) and the related regulations, as well as pursuant to a plan approved by our stockholders. A small portion of the salary that was paid to our CEO in 2007 was not deductible for tax purposes because it exceeded this limit and therefore is not qualified under Code Section 162(m). Cash incentives paid with respect to 2007 were granted under the stockholder-approved 2006 Incentive Award Plan and were fully deductible for purposes of 162(m).

For purposes of 2007 bonus award EBITDA calculation. Although a portion of the salary of the CEO was not deductible for purposes of Section 162(m), our Compensation Committee considered that the importance of a stable base salary for the CEO outweighed our cost of the non-deductible compensation. We had qualified certain compensation paid to senior executives for deductibility under Section 162(m), including certain annual cash incentive payments and certain compensation expense related to performance-based options granted in 2004.

**FAS 123(R).** Options granted in 2004 and 2005 before the IPO, as well as options granted after our IPO, resulted in compensation expense to us under FAS 123(R), and additional compensation expense will be recognized on account of the acceleration of all unvested options at closing of the merger. New options granted in 2008 will likewise result in ongoing compensation expense to us under FAS 123(R).

**Table of Contents****SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS**

We are a wholly owned subsidiary of Chill Holdings, Inc., which we refer to as Parent, which indirectly owns all of our issued and outstanding capital stock through its direct ownership of all of the issued and outstanding capital stock of Chill Intermediate Holdings, Inc. All of Parent's issued and outstanding capital stock is owned by funds affiliated with Hellman & Friedman LLC, investment funds affiliated with GSO (the GSO Equity Entities), investment funds affiliated with Farallon Capital Partners, L.P. (the Farallon Equity Entities) and investment funds affiliated with AlpInvest Partners (AlpInvest), along with certain other investors that the GSO Equity Entities syndicated their investments to, which we collectively refer to as the Investors, and certain members of our management, whom we refer to as the Management Participants.

The Investors are able to control all actions by the board of directors of Parent by virtue of their being able to appoint a majority of the directors and their rights under the stockholders agreement to which they and Parent are parties. In addition, as a result of the voting and transfer provisions of the stockholders agreement, the Investors may be deemed to constitute a group within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934. Accordingly, each of the members of this group may be deemed to beneficially own all of the shares of Parent common stock held by the Investors and the Management Participants. Each of the Investors disclaims any beneficial ownership of shares of Parent common stock held by the other Investors and the Management participants. See Certain Relationships and Related Party Transactions.

All of our issued and outstanding shares of capital stock have been pledged as collateral to the lenders under the senior secured term credit facilities described under Description of Other Indebtedness. If we were to default on our senior secured credit facilities, the lenders could foreclose on these shares of our common stock, which would result in a change of control.

The following table sets forth as of May 31, 2008 certain information regarding the beneficial ownership of the voting securities of Parent by each person who beneficially owns more than five percent of Parent common stock, and by the directors and executive officers of us and Parent, individually, and by the directors and executive officers of us and Parent as a group.

Name of Beneficial Owner	Beneficial Ownership of Parent Common Stock	
	Number of Shares	Percentage
<b>5% Stockholders:</b>		
Funds affiliated with Hellman & Friedman LLC(1)	111,465,213	87.2
Farallon Equity Entities (2)	10,000,000	7.8
<b>Directors and Executive Officers:</b>		
David L. Swift(3)(10)		
Lawrence M. Blackburn(3)(4)	878,479	*
Ben D. Campbell(3)	373,601	*
Donald R. King(3)	368,701	*
Peter H. Alexander(3)	110,000	*
Samuel G. Bikman(3)	211,415	*
Gary L. Clark(3)(5)	178,296	*
James L. Mishler(3)(6)	192,670	*
Terrance M. Smith(3)(7)	152,484	*
William L. Topper(3)	240,501	*
Mark M. Dolan(3)		
Ardee Toppe(3)(8)	42,213	*
Charles A. Carroll(3)(9)	1,089,799	*
Philip U. Hammarskjold(1)	111,465,213	87.2
Robert B. Henske(1)	111,465,213	87.2
Erik Ragatz(1)	111,465,213	87.2
Saloni K. Saraiya(1)	111,465,213	87.2
All directors and officers as a group(11)	115,303,372	90.2

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- \* Indicates ownership of less than 1%.
- (1) Consists of 62,365,698 shares held by Hellman & Friedman Capital Partners VI, L.P. ( HFCP VI ), 32,555,251 shares held by H&F Chill Partners, L.P. ( H&F Chill ), 16,287,805 shares held by Hellman & Friedman Capital Partners VI (Parallel), L.P. ( HFCP VI (Parallel) ), 230,418 shares held by Hellman & Friedman Capital Executives VI, LP ( HFCE VI ), and 26,041 shares held by Hellman & Friedman Capital Associates VI, LP ( HFCA VI, and together with HFCP VI, H&F Chill, HFCP VI (Parallel) HFCE VI and HFCA VI, the H&F Entities ). Hellman & Friedman Investors VI, L.P. ( H&F VI ) is the general partner of HFCP VI, HFCP VI (Parallel), HFCE VI and HFCA VI, and the managing member of H&F Chill GP LLC, which is the general partner of H&F Chill. Hellman & Friedman LLC is the general partner of H&F VI. The investment decisions of each of the H&F Entities are made by the investment committee of Hellman & Friedman LLC, which exercises voting and dispositive power over these shares. Messrs. Hammarskjold, Henske and Ragatz are managing directors and Ms. Saraiya is a principal of H&F VI. Messrs. Hammarskjold, Henske and Ragatz and Ms. Saraiya disclaim beneficial ownership of these shares except to the extent of their individual pecuniary interest in these entities. The address for the H&F Entities, Messrs. Hammarskjold, Henske and Ragatz and Ms. Saraiya is One Maritime Plaza, 12th Floor, San Francisco, California 94111.
  - (2) Consists of 3,975,000 shares held by Farallon Capital Partners, L.P., 4,950,000 held by Farallon Capital Institutional Partners, L.P., 550,000 shares held by Farallon Capital Institutional Partners II, L.P., 350,000 shares held by Farallon Capital Institutional Partners III, L.P. and 175,000 shares held by Tincum Partners, L.P. The address for the Farallon Equity Entities is One Maritime Plaza, Suite 2100, San Francisco, California 94111.
  - (3) The address of this individual is c/o Goodman Global, Inc., 5151 San Felipe, Houston, Texas, 77056.
  - (4) Includes 6,659 shares subject to options that are exercisable within 60 days of May 31, 2008.
  - (5) Includes 9,160 shares subject to options that are exercisable within 60 days of May 31, 2008.
  - (6) Includes 40,916 shares subject to options that are exercisable within 60 days of May 31, 2008.
  - (7) Includes 50,164 shares subject to options that are exercisable within 60 days of May 31, 2008.
  - (8) Includes 31,950 shares subject to options that are exercisable within 60 days of May 31, 2008.
  - (9) Includes 89,799 shares subject to options that are exercisable within 60 days of May 31, 2008.
  - (10) Mr. Swift and Parent agreed that Mr. Swift shall purchase that number of shares of Parent s common stock having an aggregate value equal to \$1,000,000, at the time and on the terms described in the share subscription agreement, which Mr. Swift and Parent will enter into pursuant to the terms of Mr. Swift s employment agreement.
  - (11) Includes 138,849 shares subject to options that are exercisable within 60 days of May 31, 2008.

**Table of Contents****CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS****Agreements Related to the Merger**

Goodman Global, Inc. and Merger Sub entered into several related party agreements in contemplation of the Merger, to which we succeeded by operation of law as a result of the Merger.

***Merger Agreement***

As a result of the merger, certain members of senior management received transaction bonuses equal to 75% of their current base salary, totaling not more than \$3,202,110 in the aggregate. The transaction bonuses payable to our named executive officers are set forth in the table below. In addition, certain members of senior management were given a rollover incentive bonus payment equal to 100% of their current base salary, totaling not more than \$4,269,480 in the aggregate. The rollover incentive bonuses payable to our named executive officers are also set forth in the table below.

	<b>Transaction Bonus Paid Upon Consummation of the Merger</b>	<b>Equity Rollover Incentive Paid Upon Consummation of the Merger</b>
<b>Executive Officers:</b>		
Charles A. Carroll	\$ 805,425	\$ 1,073,900
Lawrence M. Blackburn	335,100	446,800
Ben D. Campbell	271,013	361,350
Donald R. King	244,875	326,500
William L. Topper	278,378	371,170

***Stockholders Agreement***

In connection with the closing of the Merger, Chill Holdings, Inc., or Parent, Chill Acquisition, Inc., or Merger Sub, and each of the following: funds affiliated with Hellman & Friedman LLC, which we refer to as the Hellman & Friedman Investors, funds affiliated with GSO Capital Partners, which we refer to as the GSO Equity Entities, funds affiliated with Farallon Partners, which we refer to as the Farallon Equity Entities, funds affiliated with AlpInvest Partners which we refer to as AlpInvest along with certain other investors that the GSO Equity Entities syndicated their investments to (collectively, the Fund Co-Investors) (collectively, the Investors) and certain members of our management, whom we refer to as the Management Participants, entered into a stockholders agreement that generally contains the following provisions:

**Board of Directors.** The stockholders agreement requires that, until an initial public offering of shares of Parent's common stock, the parties that beneficially own shares of Parent's common stock will vote those shares to elect a board of directors of Parent comprised of the following persons:

the chief executive officer of Parent and

the remaining board members designated by the Hellman & Friedman Investors, with at least one of such designees being designated by Hellman & Friedman Capital Executives VI, L.P. for so long as it owns any share equivalents.

After an initial public offering of Parent's common stock, the Hellman & Friedman Investors and their affiliates will have the right to nominate the number of individuals for election to the board of directors that is equal to the product of the percentage of Parent's share equivalents held by the Hellman & Friedman Investors and their affiliates, multiplied by the number of directors then on the board, rounded up to the nearest whole number.

For as long as the Hellman & Friedman Investors are entitled to nominate an individual for election to the board of directors, Parent is required to nominate such individual for election as a director as part of the slate that



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is included in the proxy statement or consent solicitation relating to such election and provide the highest level of support for the election of such individual as it provides to any other individual standing for election as part of Parent's slate.

*Indemnification.* We generally are required to indemnify and hold harmless each of the stockholders that is party to the stockholders agreement, together with its partners, stockholders, members, affiliates, directors, officers, fiduciaries, controlling persons, employees and agents from any losses arising out of either of the following, subject to limited exceptions:

the stockholder's or its affiliate's ownership of share equivalents or other equity securities of Parent or its ability to control or influence Parent, or

the business, operations, properties, assets or other rights or liabilities of Parent or any of its subsidiaries.

*Participation Rights.* Subject to specified exceptions, until an initial public offering, Parent may not issue securities or debt securities, a post closing issuance, without permitting each Investor the opportunity to purchase a pro rata share of the securities being issued, based on the Investor's respective ownership of share equivalents at that time.

*Transfer Provisions and Registration Rights.* The stockholders agreement also contains (1) transfer restrictions applicable to the share equivalents held by Parent, the Investors and the Management Participants, (2) tag-along rights in favor of the Hellman & Friedman Investors and each eligible tag-along Investor, (3) drag-along rights in favor of the Hellman & Friedman Investors, and (4) certain registration rights (including customary indemnification) and Rule 144 sale provisions applicable to the Investors and their affiliates and the Management Participants.

### ***Management Stockholders Agreement***

The common stock and options in Parent issued to the initial Management Participants, each of whom entered into an equity contribution agreement, are subject to a management stockholders agreement, which generally contains the following provisions:

transfer restrictions, including rights of first refusal in favor of Parent or its designee,

repurchase rights in favor of Parent or its designee,

put rights in favor of the Management Participants,

piggyback registration rights in favor of the Management Participants,

tag-along rights in favor of the Management Participants with respect to sales by the Hellman & Friedman Investors, and

drag-along rights in favor of the Hellman & Friedman Investors.

### ***Subscription Agreement***

In connection with the Merger, Parent entered into a subscription agreement with each of the following: funds affiliated with the Hellman & Friedman Investors, GSO Equity Entities, Farallon Equity Entities, AlpInvest, and the Fund Co-Investors, each a Subscriber, which set forth the terms of the sale and purchase of the subscription securities. Under the subscription agreement, the Subscribers were also required to enter into the stockholders agreement, described above.

*Exchange and Registration Rights Agreement*

Merger Sub, prior to the Merger, entered into a registration rights agreement with funds affiliated with GSO Capital Partners, funds affiliated with Farallon Partners, funds affiliated with AlpInvest Partners and funds



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affiliated with the Fund Co-Investors (the Purchasers), pursuant to which we were required to file this registration statement and deliver to the Purchasers the exchange notes registered hereunder, in exchange for the initial notes tendered by the Purchasers. Under the agreement, Goodman Global, Inc. and each guarantor, jointly and severally, agreed to indemnify and hold harmless each holder and controlling person against any losses, claims, damages, liabilities, costs and reasonable expenses (Losses), if any Losses are based upon any untrue statement of material fact in any registration statement, prospectus or in any amendment or supplement thereto, in any preliminary prospectus or any free-writing prospectus or issuer information filed or required to be filed pursuant to Rule 433(d) under the Securities Act, or any omission or alleged omission to state therein a material fact required to be stated or necessary to make the statements therein not misleading.

***Indemnification of Directors and Officers***

Pursuant to the closing of the Merger, Parent entered into indemnification agreements with Messrs. Alexander, Bikman, Blackburn, Campbell, Carroll, Clark, King, Mishler, Smith, Toppe and Topper. Parent agreed that, for a period of six years following the effective time of the Merger, it will indemnify each of the directors and officers of our predecessor to the fullest extent permitted by Delaware law against claims arising out of or pertaining to the fact that the person was an officer or director of our predecessor or any of our subsidiaries prior to the Merger. The certificate of incorporation of the surviving corporation provides that we will indemnify each of our directors and officers to the fullest extent permitted by law for claims arising by reason of the fact that he or she is a director, officer or employee of us, or of any of our subsidiaries. On March 6, 2008, Goodman Global, Inc. entered into indemnification agreements with our directors, Messrs. Carroll, Henske and Ragatz and Ms. Saraiya, with similar terms as described above.

***Employment and Severance Agreements***

In connection with the closing of the Merger, Merger Sub entered into a new employment agreement with Charles Carroll on February 13, 2008, under which Mr. Carroll would continue as the Chief Executive Officer of Goodman Global, Inc. until June 30, 2008 or, if earlier, the date on which his replacement commenced employment. Mr. Carroll retired as our President and Chief Executive Officer and our new President and Chief Executive Officer, David Swift, joined us on April 21, 2008. On February 13, 2008, Merger Sub also entered into a new employment agreement with Lawrence Blackburn pursuant to which Mr. Blackburn continues to serve as our Chief Financial Officer. In connection with the closing, Merger Sub also entered into individual severance agreements with our other executive officers. See Executive Compensation New Employment Agreements and Executive Compensation New Severance Agreements.

***Equity Contribution Agreements***

Certain members of senior management, including our named executive officers, have entered into equity contribution agreements with Parent. Pursuant to the equity contribution agreements, at the effective time of the Merger, each executive contributed to Parent a portion of the shares of Goodman Global, Inc. common stock he then held in exchange for shares of Parent common stock having an equivalent value based on the price per share our current controlling shareholders paid for their shares of Parent common stock. To the extent that an executive did not hold a sufficient number of shares of Goodman Global, Inc. common stock at the effective time of the Merger to contribute the specific value described in his equity contribution agreement, he contributed a sufficient number of vested options to purchase shares of Goodman Global, Inc. common stock in exchange for vested options for Parent stock so that the total value of the shares of Goodman Global, Inc. common stock and vested options to purchase shares of Goodman Global, Inc. common stock contributed to Parent was equal to the value the executive agreed to contribute in his equity contribution agreement. These options were contributed pursuant to the terms of option rollover agreements dated as of February 13, 2008. The aggregate value of Goodman (predecessor) stock contributed for common stock of Chill Holdings, Inc. by all members of senior management, including our named executive officers pursuant to the equity contribution agreements, was \$36.1 million. See Compensation Discussion and Analysis Equity Contribution Agreements.

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In addition, Messrs. Blackburn, Clark, Mishler, Smith and Toppe entered into option rollover agreements to roll options over Goodman Global, Inc. common stock in exchange for new Parent options to purchase shares of Parent equity, at an exercise price per share calculated on the basis of a ratio of the price paid for each share of Goodman Global, Inc. common stock in the Merger over the price per share of Parent common stock paid by our current controlling stockholders. Although the intrinsic value of the shares rolled varied for each executive, the terms of these option rollover agreements are identical to the terms summarized at Compensation Discussion and Analysis Equity Contribution Agreements. Each member of senior management who contributed his existing equity for new equity in Parent or invested in additional equity in Parent was required to become a party to a management stockholders' agreement, the terms of which are summarized at Compensation Discussion and Analysis.

**Agreements with our New President and Chief Executive Officer**

***Employment Agreement***

Mr. Swift entered into an employment agreement with us (the Employment Agreement), effective as of April 21, 2008, pursuant to which Mr. Swift commenced serving as our and our Parent's President and Chief Executive Officer, and as a member of our and our Parent's Board of Directors. Mr. Swift's employment agreement has an initial term of five years, which will renew for additional one-year periods until either party provides notice of non-renewal at least 180 days prior to the end of the then-current term. The following description is only a summary of the material provisions of the Employment Agreement with Mr. Swift, does not purport to be complete and is qualified in its entirety by reference to the provisions of that agreement, including the definitions therein of certain terms used below.

*Salary and Bonus.* The Employment Agreement provides that while employed as our President and Chief Executive Officer, Mr. Swift will receive a base salary at the annual rate of \$950,000, subject to annual review and adjustment, and will be eligible to earn an annual bonus in a target amount equal to 95% of his base salary, with a maximum bonus opportunity equal to 457.33% of his base salary. The Employment Agreement also required us to pay Mr. Swift an initial cash signing bonus of \$850,000; we are also obligated to pay Mr. Swift a tax gross-up payment equal to the federal income, state income and employment taxes imposed on the initial signing bonus. If Mr. Swift remains employed with us through the Stage 2 Date (as defined below), then we will pay Mr. Swift an additional cash bonus in an amount which we cannot determine at this time, plus a tax gross-up payment on such additional cash bonus. Mr. Swift is also entitled to participate in Goodman's employee benefit plans on the same basis as those plans are generally made available to other similarly situated executives.

In the event that any payment or benefit to be received under the Employment Agreement will trigger the imposition of excise tax under Section 4999 of the Code, then all payments will be reduced to the extent necessary so that the excise tax will not be imposed unless the amount of such reduction would equal or exceed 110% of the excise tax that would be imposed on such amounts.

*Equity Participation.* Mr. Swift's equity participation in Parent, Goodman and any of their subsidiaries will be pursuant to the 2008 Plan, described in the section entitled Executive Compensation New Equity Incentive Plan, option award agreements issued under the 2008 Plan, the Management Stockholders Agreement, described in the section above entitled Management Stockholders Agreement, and any contribution or subscription agreements relating to the equity of Parent or Goodman. On April 21, 2008, Mr. Swift and Parent entered into both a time-vesting stock option agreement and a performance-vesting stock option agreement. In addition, Goodman and Mr. Swift agreed that on the Stage 2 Date, Mr. Swift and Parent will enter into a share subscription agreement, providing that Mr. Swift shall purchase that number of shares of Parent's common stock, par value \$0.01 per share, having an aggregate value equal to \$1,000,000, on the terms described in the share subscription agreement.

The options are subject to the provisions of the 2008 Plan, as well as the terms of the applicable award agreement. Pursuant to the performance-vesting stock option agreement, Mr. Swift was granted an option to

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purchase 673,492 shares at an exercise price of \$10.00 per share, vesting in five equal installments (of 20% each) of the shares covered by the option on December 31 of each calendar year 2008 through 2012, subject to the satisfaction of certain performance targets for each such year. Pursuant to the time-vesting stock option agreement, Mr. Swift was granted an option to purchase 1,010,239 shares at an exercise price of \$10.00 per share. The time-vesting option vests in four equal installments (of 25% each) on April 21 of each calendar year 2009 through 2012, subject to Mr. Swift's continuous service with us. In the event of a change in control, both the time-vesting options and the performance-vesting options shall, subject to certain conditions, accelerate and immediately become fully vested and exercisable immediately prior to the effective date of the change in control.

*Relocation Arrangements.* We agreed with Mr. Swift that an agent acting as a representative for us will purchase Mr. Swift's residential property in St. Joseph, Michigan (the Property) for a purchase price of \$1,150,000 and simultaneous with such purchase, the agent will enter into a lease agreement to lease the Property to Mr. Swift and his spouse. The Property will be listed by the agent for sale. Our prior consent will be required to accept any purchase offer, and Mr. Swift's and our prior consent will be required to accept any purchase offer for the Property received prior to July 31, 2008 for a price less than \$1,700,000. The date of closing of the sale of the Property by the agent to an unaffiliated third party shall be the Stage 2 Date and the purchase price shall be the Stage 2 Price.

We also agreed with Mr. Swift that the purchase price paid for the Property was calculated as the average of two third-party appraisals, and such amount represented the good faith belief of both Mr. Swift and us as to the fair market value of the Property. Mr. Swift and Goodman also agreed that to the extent that the Stage 2 Price is less than \$1,000,000, Mr. Swift will indemnify us for the amount of such loss.

Pursuant to the Employment Agreement, we are required to pay or reimburse Mr. Swift for relocation costs incurred in connection with his permanent move to Houston, Texas. We will also pay or reimburse Mr. Swift up to an aggregate amount of \$10,000 for reasonable legal fees incurred in connection with the negotiation of the Employment Agreement.

*Termination Arrangements.* In the event that Mr. Swift is terminated by us without cause, or resigns for good reason, we will provide him with payments totaling two times his base salary, plus two times his target bonus, over the two-year period following such termination, as well as a prorated annual bonus for the year of termination, payable at the time such payment would have otherwise been paid under the bonus program. In the event that prior to April 21, 2009, Mr. Swift is terminated by us with cause or he resigns without good reason, Mr. Swift must repay both the initial cash signing bonus and additional cash bonus, as well as any tax gross up paid pursuant thereto. Pursuant to the Employment Agreement, Mr. Swift has agreed not to disclose our confidential information at any time, and, for the period during which he provides services to us and for the two-year period thereafter, he has also agreed not to compete with us, interfere with our business, or solicit or hire our employees or customers.

***Indemnification Agreement***

Mr. Swift and Goodman each also entered into an Indemnification Agreement on substantially the same terms as those of the Indemnification Agreements between our Parent and the directors and officers described above. The Indemnification Agreement by and between Goodman and Mr. Swift does not supersede, limit or alter any of the rights and obligations of either party as set forth in the Employment Agreement and any equity agreements between our Parent and Mr. Swift.

***Joinder to the Management Stockholders Agreement***

Mr. Swift and Goodman each executed a joinder to the Management Stockholders Agreement (the Joinder), described in the section entitled "Certain Relationships and Related Party Transactions Management Stockholders Agreement." Pursuant to the Joinder, Mr. Swift will share the same rights and obligations as the Initial Management Investors, as defined in the Management Stockholders Agreement.

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**DESCRIPTION OF OTHER INDEBTEDNESS**

**Senior Secured Credit Facilities**

***Overview***

In connection with the Transactions, we and Chill Intermediate Holdings, Inc. entered into (1) a senior secured term credit agreement with Barclays Capital and Calyon New York Branch, as joint lead arrangers, Barclays Capital, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, General Electric Capital Corporation, as administrative agent and collateral agent, and the lenders from time to time party thereto, and (2) an asset-based revolving credit agreement with Barclays Capital and General Electric Capital Corporation, as joint lead arrangers, Barclays Capital, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, General Electric Capital Corporation, as administrative agent and collateral agent, General Electric Capital Corporation, as letter of credit issuer, and the lenders from time to time party thereto. We refer to these facilities as the senior secured credit facilities.

The senior secured credit facilities provide senior secured financing in the amount of up to \$1.1 billion, consisting of:

an \$800.0 million senior secured term credit agreement; and

an asset-based revolving credit agreement of up to \$300.0 million, subject to borrowing base availability.

Goodman Global, Inc. is the borrower under the senior secured credit facilities. The amount from time to time available under the asset-based revolving credit agreement (including in respect of letters of credit) shall not exceed the borrowing base. The borrowing base under the asset-based revolving credit agreement will equal the sum of (1) 85% of all eligible accounts receivable of ours and each guarantor thereunder and (2) 85% of the net orderly liquidation value of all eligible inventory of ours and each guarantor thereunder and, in each case, subject to customary reserves established or modified from time to time by and at the permitted discretion of the administrative agent or collateral agent thereunder. The asset-based revolving credit agreement includes borrowing capacity of up to \$30.0 million for short-term borrowings referred to as swingline loans and up to \$50.0 million for letters of credit.

***Interest Rate and Fees***

Borrowings under the senior secured credit facilities bear interest at a rate equal to an applicable margin plus, at our option, either (1) a base rate determined by reference to the higher of (a) the prime lending rate published by The Wall Street Journal and (b) the federal funds rate plus 1/2 of 1% or (2) a reserve adjusted Eurodollar rate determined by reference to the higher of (a) the London interbank rate for deposits in dollars for the applicable interest period of one, two, three or six months (or if available to all applicable lenders, nine or twelve months or a period shorter than one month) and (b) 3.25%.

The initial applicable margin for borrowings is, under the senior secured term credit agreement, 3.25% with respect to base rate loans and 4.25% with respect to Eurodollar rate loans and, under the senior secured asset-based revolving credit agreement, 1.00% with respect to base rate loans and 2.00% with respect to Eurodollar rate loans. The applicable margin for loans under the senior secured term credit agreement may be reduced subject to our attaining a certain leverage ratio.

In addition to paying interest on outstanding principal under the senior secured credit facilities, we are required to pay a commitment fee to the lenders under the senior secured asset-based revolving credit facility in respect of the unutilized commitments thereunder. The initial commitment fee rate is 0.50% per annum. The commitment fee rate may be reduced subject to our attaining a certain leverage ratio. We must also pay customary letter of credit fees.

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### ***Prepayments***

The senior secured term credit agreement requires us to offer to prepay outstanding term loans, subject to certain exceptions, as follows:

100% of the net proceeds from non-ordinary course asset sales by us and our restricted subsidiaries (with a 100% reinvestment exception);

100% of the net proceeds from issuances of debt by us and our restricted subsidiaries, other than proceeds from debt permitted under the senior secured term credit agreement;

100% of the net proceeds from permitted sale leasebacks consummated by us or our restricted subsidiaries (with a 100% reinvestment exception);

100% of the net proceeds from insurance recovery and condemnation events of us and our restricted subsidiaries (with a 100% reinvestment exception); and

75% (which percentage shall be reduced to 50% or 25% subject our attaining certain leverage tests) of our annual excess cash flow. The foregoing mandatory prepayments are applied pro rata to the remaining amortization payments under the senior secured term credit agreement.

We may voluntarily repay outstanding loans under the senior secured term credit agreement at any time. A prepayment fee equal to 1.00% of the aggregate principal amount of the prepayment must accompany all prepayments of term loans made on or prior to February 13, 2009. All prepayments of term loans made after February 13, 2009 may be made without premium or penalty, other than customary breakage costs with respect to Eurodollar rate loans.

The asset-based revolving credit agreement requires us to prepay outstanding loans under the asset-based revolving credit agreement, subject to certain exceptions, as follows:

on any date on which the sum of all outstanding revolving credit loans, all outstanding swingline loans and the total lenders' letter of credit exposure exceeds the total revolving credit commitments under the asset-based revolving credit agreement, 100% of such excess amount;

except for permitted overadvances, if on any date the sum of all outstanding revolving credit loans, all outstanding swingline loans and the total lenders' letter of credit exposure exceeds 100% of the borrowing base then in effect, then 100% of such excess amount; and 100% of all available funds credited to a designated collection account after the occurrence and during the continuation of a cash dominion event (as defined in the asset-based revolving credit agreement).

We may voluntarily repay outstanding revolving credit loans and swingline loans under the asset-based revolving credit facility at any time without premium or penalty, other than customary breakage costs with respect to Eurodollar rate loans. In addition, we may elect to permanently terminate or reduce all or a portion of the revolving credit commitments and the letter of credit sub-limit under the asset-based revolving credit facility at any time without premium or penalty.

### ***Amortization***

Beginning June 30, 2008, we are required to repay installments on the term loans under the senior secured term credit agreement in quarterly principal amounts of \$2.0 million, with the balance payable on February 13, 2014. There is no amortization under the senior secured asset-based

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revolving credit agreement. The entire principal amounts (if any) of revolving credit loans outstanding under the senior secured asset-based revolving credit facility are due and payable in full at maturity, February 13, 2013, on which day the revolving credit commitments thereunder will terminate. The entire principal amounts (if any) of swingline loans outstanding

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under the senior secured asset-based revolving credit facility are due and payable in full at maturity, five business days prior to February 13, 2013, on which day the swingline commitments thereunder will terminate.

### ***Guarantee and Security***

All obligations under the senior secured credit facilities are unconditionally guaranteed by Chill Intermediate Holdings, Inc., and each of our direct and indirect U.S. material restricted subsidiaries (other than AsureCare Corp.), which we refer to, collectively, as Guarantors.

All obligations under the senior secured term credit agreement, and the guarantees of those obligations, are secured by, subject to certain exceptions:

a first-priority pledge of 100% of the capital stock of us and each of our direct restricted subsidiaries and of each subsidiary Guarantor (but not more than 65% of the capital stock of any material first-tier non-U.S. subsidiary) (we refer to such pledged capital stock as the Equity Collateral);

a first-priority security interest in, and mortgages on, substantially all of our and the Guarantors' tangible and intangible assets (we refer to such assets, together with the Equity Collateral, as the Term Facility Collateral) that do not constitute Asset-Based Facility Collateral (as defined below); and

a second-priority security interest in all Asset-Based Facility Collateral.

All obligations under the asset-based revolving credit agreement, and the guarantees of those obligations, are secured by, subject to certain exceptions:

a first-priority security interest in substantially all of our and the Guarantors' accounts receivable, inventory, cash, deposit accounts, other bank accounts and securities accounts, intercompany notes and intangible assets to the extent attached to the foregoing and all proceeds of the foregoing (we refer to such assets, collectively, as the Asset-Based Facility Collateral); and

a second-priority security interest in all Term Facility Collateral.

### ***Covenants and Events of Default***

Our senior secured term credit agreement includes financial covenants requiring us to maintain a maximum total leverage ratio and minimum interest coverage ratio and the asset-based revolving credit agreement includes a financial covenant requiring us to maintain, in certain circumstances, a minimum fixed charge coverage ratio. See Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources - Financial Covenant Compliance. In addition, the senior secured credit facilities also contain other customary affirmative and negative covenants and events of default.

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**DESCRIPTION OF NOTES**

**General**

Certain terms used in this description are defined under the subheading *Certain Definitions*. In this description, (i) the terms *we*, *our* and *us* each refer to Goodman Global, Inc. and its consolidated Subsidiaries; and (ii) the term *Issuer* refers only to (a) prior to the consummation of the Transactions, Chill Acquisition, Inc. and not any of its Affiliates and (b) from and after the consummation of the Acquisition, Goodman Global, Inc. and not any of its Subsidiaries.

The Issuer issued \$500,000,000 aggregate principal amount of 13.50%/14.00% senior subordinated notes due 2016 (the *Notes*) under an indenture dated as of February 15, 2008 (as amended, the *Indenture*) by and between the Issuer and Wells Fargo Bank, National Association, as trustee (the *Trustee*). The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act.

The following description is only a summary of the material provisions of the Indenture, which is an exhibit to the registration statement of which this prospectus forms a part. We urge you to read the Indenture because it defines your rights as Holders of the Notes. You may request copies of the Indenture at our address set forth under the heading *Prospectus Summary*.

**Brief Description of Notes**

The Notes are:

unsecured senior subordinated obligations of the Issuer;

subordinated in right of payment to all existing and future Senior Indebtedness (including the Credit Facilities) of the Issuer;

effectively subordinated to all secured Indebtedness of the Issuer (including the Credit Facilities);

senior in right of payment to all existing and future Subordinated Indebtedness of the Issuer;

guaranteed on an unsecured senior subordinated basis by each Subsidiary that guarantees the Credit Facilities; and

subject to registration with the Commission pursuant to a Registration Rights Agreement.

**Guarantees**

The Guarantors jointly and severally unconditionally guarantee, on a senior subordinated basis, that the principal of, premium, if any, and interest and Liquidated Damages, if any, on the Notes shall be duly and punctually paid in full or performed when due, whether at maturity, by acceleration, call for redemption, upon a Change of Control Offer, upon an Asset Sale Offer or otherwise, and interest on overdue principal, premium, if any, Liquidated Damages, if any, and (to the extent permitted by law) interest on any interest, if any, on the Notes and all other obligations of the Issuer to the Holders or the Trustee hereunder or under the Notes (including fees, expenses or other) shall be promptly paid in full, all in accordance with the terms set forth in the Indenture.

The subsidiaries of the Issuer that are not Unrestricted Subsidiaries (such subsidiaries, collectively, the *Subsidiaries*) (other than as detailed below) guarantee the Notes. Each of the Guarantees of the Notes is a general unsecured obligation of each Guarantor, subordinated in right of payment to all existing and future Senior Indebtedness of each such entity and is effectively subordinated to all secured Indebtedness of each such entity. The Notes are structurally subordinated to Indebtedness of subsidiaries of the Issuer that do not Guarantee the Notes.





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Not all of the Issuer's Subsidiaries Guarantee the Notes. As of the date of this prospectus, all of the Issuer's domestic Subsidiaries, other than AsureCare Corp., Guarantee the Notes, and none of the Issuer's Foreign Subsidiaries Guarantee the Notes. See **Certain Covenants** **Subsidiary Guarantors**. As of the date of this prospectus, the Issuer does not have any Unrestricted Subsidiaries. In the event of a bankruptcy, liquidation or reorganization of any of these non-guarantor Subsidiaries, the non-guarantor Subsidiaries will pay the holders of their debt and their trade creditors before they will be able to distribute any of their assets to the Issuer. As of the date of this prospectus, substantially all of our consolidated assets and revenues were attributable to the Issuer and the Guarantors.

The obligations of each Guarantor under its Guarantees are limited as necessary to prevent the Guarantees from constituting a fraudulent conveyance under applicable law.

If a Guarantee were rendered voidable, it could be subordinated by a court to all other indebtedness (including guarantees and other contingent liabilities) of the Guarantor, and, depending on the amount of such indebtedness, a Guarantor's liability on its Guarantee could be reduced to zero. See **Risk Factors** **Risks Related to the Notes**. Federal and state fraudulent transfer laws may permit a court to void the guarantees, and, if that occurs, you may not receive any payments on the notes.

A Guarantor will be deemed released from its obligations under its Guarantee of the Notes upon:

- (1) the sale or disposition (including by merger or stock purchase) of a Guarantor (as an entirety) or of all or substantially all of its assets to an entity which is not and is not required to become a Guarantor, which transaction is otherwise in compliance with the Indenture,
- (2) the exercise by the Issuer of Legal Defeasance (upon such Legal Defeasance becoming effective) in accordance with the Indenture or the Issuer's obligations under the Indenture being discharged in accordance with the Indenture, or
- (3) the designation of a Guarantor to become an Unrestricted Subsidiary.

Furthermore, if any Guarantor became a Guarantor because it guaranteed any of the Issuer's other Indebtedness or any other Indebtedness of the Guarantors, or, because more than 66% of its Voting Equity Interests were pledged to a lender to secure the Issuer's Indebtedness or any Indebtedness of any Guarantor, and such Guarantor is released from that guarantee, then it shall also be released from its Guarantee under the Indenture.

## **Ranking**

### ***Senior Indebtedness Versus the Notes***

The payment of any Obligation in respect of the Notes, including the principal of, premium, if any, and interest (and Liquidated Damages, if any) on the Notes and the payment of any Guarantee are subordinated in right of payment to the prior payment in cash in full of all Senior Indebtedness of the Issuer or the relevant Guarantor, as the case may be, including the obligations of the Issuer and such Guarantor under the Credit Facilities.

The Notes are also effectively subordinated to all of the Issuer's and the Guarantor's existing and future secured Indebtedness to the extent of the value of the assets securing such Indebtedness. As of March 31, 2008, Goodman Global, Inc. and the Guarantors had total Indebtedness of \$1,377.6 million, of which \$800.0 million was Senior Indebtedness, excluding approximately \$35.0 million of issued and outstanding letters of credit and up to \$154.6 million of undrawn commitments for revolving credit loans under our asset-based revolving credit agreement.

Although the Indenture contains limitations on the amount of additional Indebtedness that the Issuer and the Subsidiaries may incur, under certain circumstances the amount of such Indebtedness could be substantial. See **Certain Covenants** **Limitation on Incurrence of Additional Indebtedness and Issuance of Disqualified Capital Stock**.

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### **Paying Agent and Registrar for the Notes**

The Issuer maintains one or more paying agents for the Notes. The initial paying agent for the Notes is the Trustee.

The Issuer also maintains a registrar. The initial registrar will be the Trustee. The registrar maintains a register reflecting ownership of the Notes outstanding from time to time and makes payments on and facilitates transfer of Notes on behalf of the Issuer.

The Issuer may change the paying agents or the registrars without prior notice to the Holders. The Issuer or any of its Subsidiaries may act as a paying agent or registrar.

### **Subordination of the Notes**

Any Indebtedness of the Issuer or a Guarantor that is Senior Indebtedness ranks senior to the Notes and the Guarantees in accordance with the provisions of the Indenture.

The Issuer and the Guarantors will not incur, or suffer to exist, any Indebtedness that is contractually subordinate in right of payment to any other Indebtedness of such Person, unless, by its terms, such Indebtedness is contractually subordinate in right of payment to, or ranks *pari passu* with, the Notes or the Guarantee, as applicable.

Neither the Issuer nor any Guarantor may make payment (by set-off or otherwise) to the Holders of the Notes on account of any Obligation in respect of the Notes, including the principal of, premium, if any, or interest (or Liquidated Damages, if any) on the Notes, or on account of the redemption provisions of the Notes (including any repurchases of Notes), for cash or property (other than Junior Securities):

(i) upon the maturity of the Issuer's Senior Indebtedness or any Senior Indebtedness of any Guarantor by lapse of time, acceleration (unless waived) or otherwise, unless and until all principal of, premium, if any, and the interest and other amounts on such Senior Indebtedness are first paid in full in cash and, in the case of Senior Indebtedness under the Credit Facilities, all letters of credit issued under the Credit Facilities shall either have been terminated or cash collateralized in accordance with the terms thereof; or

(ii) in the event of default in the payment of any principal of, premium, if any, or interest or other amounts on the Issuer's Senior Indebtedness or Senior Indebtedness of such Guarantor, as applicable, when such Senior Indebtedness becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise (a *Payment Default*), unless and until such Payment Default has been cured or waived or otherwise has ceased to exist or such Senior Indebtedness has been paid in full in cash and all letters of credit issued under the Credit Facilities have been terminated or cash collateralized in accordance with the terms thereof.

Upon (i) the happening of an event of default other than a Payment Default that permits the holders of any Designated Senior Indebtedness to declare such Designated Senior Indebtedness to be due and payable and (ii) written notice of such event of default delivered to the Issuer and the Trustee by the holders or representatives of any Designated Senior Indebtedness (a *Payment Blockage Notice*), then, unless and until such event of default has been cured or waived or otherwise has ceased to exist, no payment (by set-off or otherwise) may be made by or on behalf of the Issuer or any Guarantor, in each case, which is an obligor or guarantor under such Designated Senior Indebtedness, to the Holders of the Notes on account of any Obligation in respect of the Notes, including the principal of, premium, if any, or interest (or Liquidated Damages) on the Notes, (including any repurchases of any of the Notes), or on account of the redemption provisions of the Notes, in any such case, other than payments made with Junior Securities. Notwithstanding the foregoing, unless the Designated Senior Indebtedness in respect of which such event of default exists has been declared due and payable in its entirety within 179 days after the Payment Blockage Notice is delivered as set forth above (the *Payment Blockage Period*) (and such declaration has not been rescinded or waived), at the end of the Payment Blockage Period, the

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Issuer and the Guarantors will be required to pay all sums not previously paid to the Holders of the Notes during the Payment Blockage Period due to the foregoing prohibitions and to resume all other payments as and when due on the Notes.

Any number of Payment Blockage Notices may be given; *provided, however*, that: (i) not more than one Payment Blockage Notice shall be given within a period of any 360 consecutive days, and (ii) no non-Payment Default that existed upon the date of such Payment Blockage Notice or the commencement of such Payment Blockage Period shall be made the basis for the commencement of any other Payment Blockage Period unless such default has been cured or waived for a period of not less than 90 days (for purposes of this provision, any subsequent action, or any subsequent breach of any financial covenant for a period commencing after the expiration of such Payment Blockage Period that, in either case, would give rise to a new event of default, even though it is an event that would also have been a separate breach pursuant to any provision under which a prior event of default previously existed, will constitute a new event of default for this purpose).

Upon any distribution of assets of the Issuer or any Guarantor upon any dissolution, winding up, total or partial liquidation or reorganization of the Issuer or a Guarantor, whether voluntary or involuntary, in bankruptcy, insolvency, receivership or a similar proceeding or upon assignment for the benefit of creditors or any marshaling of assets or liabilities:

(1) the holders of all of the Issuer's Senior Indebtedness or such Guarantor's Senior Indebtedness, as applicable, will first be entitled to receive payment in full in cash and all letters of credit issued under the Credit Facilities will either have been terminated or cash collateralized in accordance with the terms thereof before the Holders are entitled to receive any payment (other than in the form of Junior Securities) on account of any Obligation in respect of the Notes, including the principal of, premium, if any, and interest (or Liquidated Damages) on the Notes; and

(2) any payment or distribution of the Issuer's or such Guarantor's assets of any kind or character from any source, whether in cash, property or securities (other than Junior Securities) to which the Holders or the Trustee on behalf of the Holders would be entitled (by set-off or otherwise), except for the subordination provisions contained in the Indenture, will be paid by the liquidating trustee or agent or other Person making such a payment or distribution directly to the holders of such Senior Indebtedness or their representative to the extent necessary to make payment in full in cash on all such Senior Indebtedness remaining unpaid and to cash collateralize all letters of credit issued under the Credit Facilities that remain outstanding, after giving effect to any concurrent payment or distribution to the holders of such Senior Indebtedness.

Notwithstanding the subordination and payment blockage provisions described above, any payment or distribution of assets of the Issuer or any Guarantor (other than Junior Securities) that is received by the Trustee or the Holders at a time when such payment or distribution is prohibited by the payment blockage provisions described above will be held in trust for the benefit of the holders of such Senior Indebtedness, and will be immediately paid or delivered by the Trustee or such Holders, as the case may be, to the holders of such Senior Indebtedness remaining unpaid for or to their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Indebtedness may have been issued, ratably according to the aggregate principal amounts remaining unpaid on account of such Senior Indebtedness held or represented by each, for application to the payment of all such Senior Indebtedness remaining unpaid, to the extent necessary to pay all such Senior Indebtedness in full in cash and to cash collateralize all letters of credit issued under the Credit Facilities that remain outstanding after giving effect to any concurrent payment or distribution to the holders of such Senior Indebtedness.

The failure to make a payment on account of principal of, premium, if any, or interest (or Liquidated Damages, if any) on the Notes by reason of any of the subordination provisions contained in the Indenture will not prevent the occurrence of a Default or an Event of Default as described under Events of Default and Remedies or in any way limit the rights of the Trustee or any Holder to pursue any other rights or remedies with respect to the Notes.

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The obligations of each Guarantor under its Guarantee is subordinated in right of payment to the prior payment in full in cash of all Senior Indebtedness of such Guarantor on the same basis as the Notes are subordinated to Senior Indebtedness of the Issuer. For the purposes of the foregoing sentence, the Trustee and the Holders have the right to receive and/or retain payments by any of the Guarantors only at such times as they may receive and/or retain payments in respect of Notes pursuant to the Indenture. In the event that the Trustee or the Holders receive any payment from a Guarantor at a time when such payment is prohibited by the foregoing sentence, such payment will be held in trust for the benefit of, and immediately paid over and delivered to, the holders of the Senior Indebtedness of such Guarantor remaining unpaid, to the extent necessary to pay in full in cash all such Senior Indebtedness and to cash collateralize any letters of credit issued under the Credit Facilities that remain effective.

Each Holder of the Notes by his acceptance thereof authorizes and expressly directs the Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination provisions contained in the Indenture and to protect the rights of the Holders pursuant to the Indenture, and appoints the Trustee his attorney-in-fact for such purpose, including, in the event of any dissolution, winding up, liquidation or reorganization of the Issuer or any Guarantor (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of assets and liabilities of the Issuer or any Guarantor), the immediate filing of a claim for the unpaid balance of his Notes in the form required in said proceedings and cause said claim to be approved. In the event of any liquidation or reorganization of the Issuer or any Guarantor in bankruptcy, insolvency, receivership or similar proceeding, if the Holders of the Notes (or the Trustee on their behalf) have not filed any claim, proof of claim, or other instrument of similar character necessary to enforce the obligations of the Issuer or any Guarantor in respect of the Notes at least thirty (30) days before the expiration of the time to file the same, then in such event, but only in such event, the holders of the Senior Indebtedness or a representative on their behalf may, as an attorney-in-fact for such Holders, file any claim, proof of claim, or other instrument of similar character on behalf of such Holders. Neither the Trustee nor the holders of Senior Indebtedness nor their representative may authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or authorize the Trustee or the holders of Senior Indebtedness or their representative to vote in respect of the claim of any Holder in any such proceeding.

The terms of the subordination provisions described above will not apply to amounts deposited in trust with the Trustee pursuant to and in accordance with the provisions described under **Legal Defeasance and Covenant Defeasance** and **Satisfaction and Discharge**, to the extent the making of such deposit by the Issuer shall (i) not be in contravention of any term or provision of the Credit Facilities when made and (ii) be allocated for the payment of the Notes. Otherwise, any deposit of assets with the Trustee or the registrar or paying agent (whether or not in trust) for the payment of principal of or interest on any Notes will be subject to the subordination and payment blockage provisions described above; provided that, if prior to one Business Day preceding the date on which by the terms of the Indenture any such assets may become distributable for any purpose (including without limitation, the payment of either principal of or interest on any Note) the Trustee or such paying agent has not have received with respect to such assets the written notice provided for in the Indenture, then the Trustee or such paying agent will have full power and authority to receive such assets and to apply the same to the purpose for which they were received, and will not be affected by any notice to the contrary which may be received by it on or after such date.

## **Transfer and Exchange**

A Holder may transfer or exchange Notes in accordance with the Indenture. The registrar and the Trustee may require a Holder to furnish appropriate endorsements and transfer documents in connection with a transfer of Notes. Holders will be required to pay all taxes due on transfer. The Issuer is not required to transfer or exchange any Note selected for redemption. Also, the Issuer is not required to transfer or exchange any Note for a period of 15 days before a selection of Notes to be redeemed.

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**Principal, Maturity, Interest and HYDO Redemption**

The Issuer issued \$500,000,000 in principal amount of Notes to the initial Holders on February 13, 2008 and will issue up to the same principal amount of Exchange Notes in this offering. The Notes will mature on February 15, 2016. Subject to compliance with the covenant described below under the caption *Certain Covenants Limitation on Incurrence of Additional Indebtedness and Issuance of Disqualified Capital Stock*, the Issuer may issue additional Notes from time to time after this offering under the Indenture ( *Additional Notes* ). The Notes offered by the Issuer and any Additional Notes subsequently issued under the Indenture will be treated as a single class for all purposes under the Indenture, including waivers, amendments, redemptions and offers to purchase. Unless the context requires otherwise, references to *Notes* for all purposes of the Indenture and this *Description of Notes* include any Additional Notes that are actually issued.

Interest on the Notes will be payable semi-annually in arrears on February 15 and August 15, commencing on August 15, 2008, to the Holders of record on the immediately preceding February 1 and August 1. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from and including the Issue Date. Interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months.

For any interest payment period after the initial interest payment period, the Issuer may, at its option, elect to pay interest on the Notes:

entirely in cash at a rate equal to 13.50% per annum; or

at a rate per annum equal to 14.00%, of which up to 3.00% per annum may be paid by issuing PIK Notes ( *PIK Interest* ); *provided* that the Issuer may not make any interest payment in PIK Notes after the first HYDO Determination Date (as defined below) to the extent such interest payment in PIK Notes would cause the accrued and unpaid interest and original issue discount on the Notes to exceed the amount described in clause (b) of the definition of HYDO Redemption Amount (as defined below).

The Issuer must elect the form of interest payment with respect to each interest period by delivering a notice to the Trustee prior to the beginning of each interest period. The Trustee shall promptly deliver a corresponding notice to the Holders. In the absence of such an election for any interest period, interest on the Notes shall be payable according to the election for the previous interest period. Interest for the first interest period commencing on the Issuer Date shall be payable entirely in cash.

PIK Interest on the Notes will be payable (x) with respect to Notes represented by one or more global notes registered in the name of, or held by, The Depository Trust Company ( *DTC* ) or its nominee on the relevant record date, by increasing the principal amount of the outstanding global Note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest \$1,000) and (y) with respect to Notes represented by definitive certificated notes, by issuing PIK Notes in definitive certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable period (rounded up to the nearest whole dollar), and the Trustee will, at the request of the Issuer, authenticate and deliver such PIK Notes in certificated form for original issuance to the Holders on the relevant record date, as shown by the records of the register of Holders. Following an increase in the principal amount of the outstanding global Notes as a result of a payment of PIK Interest, the global Notes will bear interest on such increased principal amount from and after the date of such payment of PIK Interest. Any PIK Notes issued in definitive certificated form will be dated as of the applicable interest payment date and will bear interest from and after such date. All PIK Notes will mature on February 15, 2016 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any definitive certificated PIK Notes will be issued with the description PIK on the face of such PIK Note.

If the Notes would otherwise constitute *applicable high yield discount obligations* within the meaning of Section 163(i)(1) of the Code, at the end of each *accrual period* (as defined in Section 1272(a)(5) of the Code) ending after February 13, 2013, the fifth anniversary of the outstanding Notes issuance (each, a *HYDO*

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*Determination Date* ), the Issuer will be required to redeem for cash a portion of each Note then outstanding equal to the HYDO Redemption Amount (each such redemption, a *HYDO Redemption* ). The redemption price for the portion of each Note redeemed pursuant to any HYDO Redemption will be 100% of the principal amount of such portion plus any accrued interest thereon on the date of redemption. *HYDO Redemption Amount* means, as of each HYDO Determination Date, the excess, if any, of (a) the aggregate amount of accrued and unpaid interest and all accrued and unpaid original issue discount (as defined in Section 1273(a)(1) of the Code) with respect to the Notes over (b) and amount equal to the product of (i) the issue price (as defined in Sections 1273(b) and 1274(a) of the Code) of the Notes multiplied by (ii) the yield to maturity (as defined in the Treasury Regulation Section 1.1272-1(b)(1)(i)) of the Notes. No partial redemption or repurchase of the Notes prior to any HYDO Determination Date pursuant to any other provision of the Indenture will alter the Issuer's obligation to make any HYDO Redemption with respect to any Notes that remain outstanding on such HYDO redemption date.

Principal of, premium, if any, interest and Liquidated Damages, if any, on the Notes will be payable at the office or agency of the Issuer maintained for such purpose, payment of cash interest and Liquidated Damages, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders; *provided* that all payments of principal, premium, if any, interest and Liquidated Damages, if any, with respect to the Notes represented by one or more global notes registered in the name of or held by DTC or its nominee will be made by wire transfer of immediately available funds to an account in the United States. Until otherwise designated by the Issuer, the Issuer's office or agency will be the office of the Trustee maintained for such purpose.

### ***Liquidated Damages***

Liquidated damages ( *Liquidated Damages* ) may accrue on the Notes in certain circumstances pursuant to the Registration Rights Agreement.

### **Mandatory Redemption; Offers to Purchase; Open Market Purchases**

The Issuer is not required to make any mandatory redemption or sinking fund payments with respect to the Notes. However, under certain circumstances, the Issuer may be required to offer to purchase Notes as described under the caption *Repurchase at the Option of Holders*. We may at any time and from time to time purchase Notes in the open market or otherwise.

### **Optional Redemption**

Except as set forth below, the Issuer is not entitled to redeem Notes at its option prior to February 15, 2011.

At any time prior to February 15, 2011, the Issuer may redeem all or a part of the Notes, upon not less than 30 nor more than 60 days' prior notice, mailed by first-class mail to the registered address of each Holder of Notes, or otherwise delivered in accordance with the procedures of DTC, at a redemption price equal to 100% of the principal amount of the Notes to be redeemed plus the Applicable Premium, and accrued and unpaid interest including Liquidated Damages, if any, to the date of redemption (the *Redemption Date* ), except that installments of interest which are due and payable on dates falling on or prior to the applicable redemption date will be payable to the persons who were the Holders of record at the close of business on the relevant record dates.

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On and after February 15, 2011, the Issuer may redeem the Notes, in whole or in part, upon notice as described under the heading **Selection and Notice**, at the redemption prices (expressed as percentages of principal amount of the Notes to be redeemed) set forth below, plus accrued and unpaid interest (and Liquidated Damages, if any), thereon to the applicable date of redemption of the Notes, if redeemed during the twelve-month period beginning on February 15 of the years indicated below:

<b>Year</b>	<b>Percentage</b>
2011	106.75%
2012	104.50%
2013	102.25%
2014 and thereafter	100.00%

In addition, until February 15, 2011, the Issuer may, at its option, on one or more occasions, redeem up to 40% of the aggregate principal amount of Notes at a redemption price equal to 113.500% of the aggregate principal amount thereof, plus accrued and unpaid interest (and Liquidated Damages, if any) thereon to the redemption date, within 90 days of the closing of any Qualified Equity Offering from the net cash proceeds of such Qualified Equity Offering; *provided* that immediately following each such redemption not less than 60% of the aggregate principal amount of the Notes originally issued pursuant to the Indenture on the Issue Date remain outstanding.

**Selection and Notice**

If less than all of the Notes are to be redeemed at any time, the Trustee shall select the Notes or portions thereof to be redeemed among the Holders of the Notes pursuant to the rules of DTC, if applicable, or on a *pro rata* basis.

Notices of redemption shall be mailed by first-class mail, postage prepaid, or otherwise delivered in accordance with the procedures of DTC, at least 30 but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at such Holder's registered address. If any Note is to be redeemed in part only, any notice of redemption that relates to such Note shall state the portion of the principal amount thereof that is to be redeemed.

Upon surrender of a Note that is redeemed in part, the Issuer will issue a new Note in a principal amount equal to the unredeemed portion of the original Note for the Holder. Notes called for redemption become irrevocably due and payable on the date fixed for redemption at the redemption price. Interest ceases to accrue on Notes or portions of them called for redemption on and after the redemption date if the Issuer deposits with the Trustee or the paying agent immediately available funds sufficient to pay the redemption price of and accrued and unpaid interest (and Liquidated Damages, if any) on all Notes to be redeemed on that date, in accordance with the Indenture.

**Repurchase at the Option of Holders****Change of Control**

In the event that a Change of Control has occurred, each Holder of Notes will have the right, at such Holder's option, pursuant to an offer (subject only to conditions required by applicable law, if any) by the Issuer (the *Change of Control Offer*), to require the Issuer to repurchase all or any part of such Holder's Notes (*provided* that the principal amount of such Notes must be \$1,000 or an integral multiple thereof or, for PIK Notes in definitive form, \$1.00 or an integral multiple thereof) on a date (the *Change of Control Purchase Date*) that is no later than 60 calendar days after the occurrence of such Change of Control, at a cash price equal to 101% of the principal amount thereof (the *Change of Control Purchase Price*), together with accrued and unpaid interest (and Liquidated Damages, if any), to the Change of Control Purchase Date.



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The Change of Control Offer shall be made within 30 calendar days following a Change of Control and shall remain open for 20 Business Days following its commencement, or such other period as may be required by applicable law (the *Change of Control Offer Period*). Upon expiration of the Change of Control Offer Period, the Issuer shall purchase all Notes properly tendered in response to the Change of Control Offer.

Notwithstanding the foregoing, the Issuer shall not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the Indenture applicable to a Change of Control Offer made by the Issuer, including any requirements to repay in full all Indebtedness under the Credit Facilities, any of the Issuer's other Senior Indebtedness or Senior Indebtedness of any Guarantor or obtain the consents of such lenders to such Change of Control Offer as set forth in the following paragraph, and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer or (2) the Issuer has previously or concurrently mailed a redemption notice with respect to all the outstanding Notes as described above under *Optional Redemption*.

Any Change of Control Offer will be made in compliance with all applicable laws, rules and regulations, including, if applicable, Regulation 14E under the Exchange Act and the rules thereunder and all other applicable Federal and state securities laws. To the extent that the provisions of any securities laws or regulations conflict with the provisions of the Indenture, the Issuer's compliance or compliance by any of the Guarantors with such laws and regulations shall not in and of itself cause a breach of their obligations under the Indenture.

On or before the Change of Control Purchase Date, the Issuer will:

- (1) accept for payment all Notes or portions thereof properly tendered pursuant to the Change of Control Offer,
- (2) deposit with the paying agent cash sufficient to pay the Change of Control Purchase Price (together with accrued and unpaid interest (and Liquidated Damages, if any) to the Change of Control Purchase Date) of all Notes so tendered, and
- (3) deliver, or cause to be delivered, to the Trustee the Notes so accepted together with an Officer's Certificate listing the Notes or portions thereof being purchased by the Issuer.

The Credit Facilities may prohibit or limit, and future credit agreements or other agreements relating to Indebtedness to which the Issuer becomes a party may prohibit or limit, the Issuer from purchasing any Notes as a result of a Change of Control. The Indenture requires that, prior to the commencement of a Change of Control Offer, but in any event within 60 days following any Change of Control, the Issuer will:

- (1) (a) repay in full in cash and terminate all commitments under Indebtedness under the Credit Facilities and all other Senior Indebtedness the terms of which require repayment upon a Change of Control or (b) offer to repay in full and terminate all commitments under all Indebtedness under the Credit Facilities and all such other Senior Indebtedness and repay the Indebtedness owed to each lender which has accepted such offer in full; or
- (2) obtain the requisite consents under the Credit Facilities and all such other Senior Indebtedness to permit the repurchase of the Notes as provided in the Indenture.

The Issuer's failure to comply with the preceding sentence shall constitute an Event of Default.

The Credit Facilities provide that certain change of control events with respect to the Issuer would constitute a default thereunder (including a Change of Control under the Indenture). If we experience a change of control that triggers a default under our Credit Facilities, we could seek a waiver of such default or seek to refinance our Credit Facilities. In the event we do not obtain such a waiver or refinance the Credit Facilities, such default could result in amounts outstanding under our Credit Facilities being declared due and payable.

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Our ability to pay cash to the Holders of Notes following the occurrence of a Change of Control may be limited by our then-existing financial resources. Therefore, sufficient funds may not be available when necessary to make any required repurchases.

The Change of Control purchase feature of the Notes may in certain circumstances make more difficult or discourage a sale or takeover of us and, thus, the removal of incumbent management. The Change of Control purchase feature is a result of negotiations between the Initial Purchasers and us. After the Issue Date, we have no present intention to engage in a transaction involving a Change of Control, although it is possible that we could decide to do so in the future. Subject to the limitations discussed below, we could, in the future, enter into certain transactions, including acquisitions, refinancings or other recapitalizations, that would not constitute a Change of Control under the Indenture, but that could increase the amount of indebtedness outstanding at such time or otherwise affect our capital structure or credit ratings. Restrictions on our ability to incur additional Indebtedness are contained in the covenants described under *Certain Covenants Limitation on Incurrence of Additional Indebtedness and Issuance of Disqualified Capital Stock* and *Certain Covenants Limitation on Liens*. Such restrictions in the Indenture can be waived only with the consent of the Holders of a majority in principal amount of the Notes then outstanding. Except for the limitations contained in such covenants, however, the Indenture will not contain any covenants or provisions that may afford Holders of the Notes protection in the event of a highly leveraged transaction.

The definition of *Change of Control* includes a disposition of all or substantially all of the assets of the Issuer. Although there is a limited body of case law interpreting the phrase *substantially all*, there is no precise established definition of the phrase under applicable law. Accordingly, in certain circumstances there may be a degree of uncertainty as to whether a particular transaction would involve a disposition of *all or substantially all* of the assets of the Issuer. As a result, it may be unclear as to whether a Change of Control has occurred and whether a Holder of Notes may require the Issuer to repurchase the Notes as described above.

The provisions under the Indenture relative to the Issuer's obligation to make an offer to repurchase the Notes as a result of a Change of Control may be waived or modified with the written consent of the Holders of a majority in principal amount of the Notes.

***Asset Sales***

The Indenture provides that the Issuer and the Guarantors will not, and will not permit any of its Subsidiaries to, in one or a series of related transactions, convey, sell, transfer, assign or otherwise dispose of, directly or indirectly, any of their property, business or assets, including by merger or consolidation (in the case of one of the Issuer's Subsidiaries), and including any sale or other transfer or issuance of any Equity Interests of any of the Issuer's Subsidiaries, whether by the Issuer or one of the Issuer's Subsidiaries or through the issuance, sale or transfer of Equity Interests by one of the Issuer's Subsidiaries and including any sale and leaseback transaction, other than in any such case to the Issuer or another Subsidiary and other than sales of Disqualified Capital Stock in compliance with the covenant described under *Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock* (any of the foregoing, an *Asset Sale*), unless:

- (1) at least 75% of the total consideration for such Asset Sale or series of related Asset Sales consists of cash, Cash Equivalents, Related Business Assets or a combination thereof;
- (2) with respect to any Asset Sale or related series of Asset Sales involving a conveyance, sale, transfer, assignment or other disposition of securities, property or assets with an aggregate Fair Market Value in excess of \$10,000,000, senior management determines in good faith that the Issuer shall receive or such Subsidiary shall receive, as applicable, Fair Market Value for such Asset Sale; and
- (3) with respect to any Asset Sale or related series of Asset Sales involving a conveyance, sale, transfer, assignment or other disposition of securities, property or assets with an aggregate Fair Market Value in excess of \$15,000,000, the Issuer's Board of Directors determines in good faith that the Issuer receive or such Subsidiary receives, as applicable, Fair Market Value for such Asset Sale.

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For purposes of clause (1) above, the following shall be deemed cash consideration: (x) Senior Indebtedness or balance sheet liabilities (other than contingent liabilities) assumed by a transferee in connection with such Asset Sale; *provided* that the Issuer is and the Issuer's Subsidiaries are fully released from obligations in connection therewith; (y) property that within 135 days of such Asset Sale is converted into cash or Cash Equivalents; and (z) any non-cash consideration received by the Issuer or such Subsidiary in such Asset Sale having an aggregate Fair Market Value, taken together with all other non-cash consideration received pursuant to this clause (z) that is at that time outstanding, not to exceed \$25,000,000, with the Fair Market Value of each item of non-cash consideration being measured at the time received and without giving effect to subsequent changes in value; *provided* that such cash and Cash Equivalents shall be treated as Net Cash Proceeds attributable to the original Asset Sale for which such property was received.

Within 365 days following such Asset Sale, the Net Cash Proceeds therefrom (the *Asset Sale Amount*) may be:

- (a) invested in Related Business Assets, used to make Restricted Investments that are not prohibited under *Certain Covenants Limitation on Restricted Payments*;
- (b) used to retire Senior Indebtedness or Indebtedness of the Issuer's Foreign Subsidiaries; *provided* that if such Senior Indebtedness is Indebtedness under the Credit Facilities, the Issuer will permanently reduce the amount of such Indebtedness that is permitted to be incurred pursuant to clause (c) of *Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock*, *provided* that in the case of a revolver or similar arrangement that makes credit available, such commitment is so permanently reduced by such amount;
- (c) applied to the optional redemption of the Notes in accordance with the terms of the Indenture and to the optional redemption of other Indebtedness *pari passu* with the Notes with similar provisions requiring the Issuer to repurchase such Indebtedness with the proceeds from such Asset Sale, *pro rata* in proportion to the respective principal amounts (or accreted values in the case of Indebtedness issued with an original issue discount) of the Notes and such other Indebtedness then outstanding; or
- (d) applied in any combination of the foregoing.

Pending the final application of any Net Cash Proceeds, the Issuer may temporarily reduce revolving credit borrowings or otherwise invest the Net Cash Proceeds in any manner that is not prohibited by the Indenture.

The accumulated Net Cash Proceeds from Asset Sales not applied as set forth in the preceding paragraph shall constitute *Excess Proceeds*. Within 30 days after the date that the amount of Excess Proceeds exceeds \$25,000,000, the Issuer shall apply an amount equal to the Excess Proceeds (rounded down to the nearest \$1,000) (the *Asset Sale Offer Amount*) by making an offer to repurchase the Notes and such other *pari passu* Indebtedness with similar provisions requiring the Issuer to make an offer to purchase such Indebtedness with the proceeds from such Asset Sale pursuant to a cash offer (subject only to conditions required by applicable law, if any), *pro rata* in proportion to the respective principal amounts (or accreted values in the case of Indebtedness issued with an original issue discount) of the Notes and such other Indebtedness then outstanding (the *Asset Sale Offer*). The Issuer will offer to purchase the Notes in the Asset Sale Offer at a purchase price of 100% of the principal amount (or accreted value in the case of Indebtedness issued with an original issue discount) of the Notes (the *Asset Sale Offer Price*), together with accrued and unpaid interest (and Liquidated Damages, if any) to the date of payment. Each Asset Sale Offer shall remain open for 20 Business Days following its commencement (the *Asset Sale Offer Period*).

To the extent that the aggregate amount of Notes and such other *pari passu* Indebtedness tendered pursuant to an Asset Sale Offer is less than the Asset Sale Offer Amount, the Issuer may use any remaining Net Cash Proceeds for general corporate purposes as otherwise permitted by the Indenture and following the consummation of each Asset Sale Offer the Excess Proceeds amount shall be reset to zero.

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Notwithstanding, and without complying with, the provisions of this covenant:

- (1) the Issuer may and the Issuer's Subsidiaries may, in the ordinary course of business, convey, sell, transfer, assign or otherwise dispose of inventory and other assets acquired and held for resale in the ordinary course of business;
- (2) the Issuer may and the Issuer's Subsidiaries may liquidate Cash Equivalents;
- (3) the Issuer may and the Issuer's Subsidiaries may convey, sell, transfer, assign or otherwise dispose of assets pursuant to and in accordance with Certain Covenants Merger, Consolidation and Sale of Assets;
- (4) the Issuer may and the Issuer's Subsidiaries may sell or dispose of damaged, worn out or other obsolete personal property in the ordinary course of business so long as such property is no longer necessary for the proper conduct of the Issuer's business or the business of such Subsidiary, as applicable;
- (5) the Issuer may and the Issuer's Subsidiaries may surrender or waive contract rights or settle, release or surrender contract, tort or other litigation claims in the ordinary course of business;
- (6) the Issuer may and the Issuer's Subsidiaries may grant Liens (and permit foreclosure thereon) not prohibited by the Indenture;
- (7) the Issuer may and the Issuer's Subsidiaries may sell or grant licenses to use the Issuer's or any Subsidiary's intellectual property or other general intangibles in the ordinary course of business, other than the licensing of intellectual property on a long-term basis;
- (8) the Issuer may and the Issuer's Subsidiaries may sell assets received by the Issuer or any Subsidiary upon the foreclosure on a Lien;
- (9) the Issuer may and the Issuer's Subsidiaries may sell or exchange equipment in connection with the purchase or other acquisition of other equipment;
- (10) the Issuer may and the Issuer's Subsidiaries may dispose any Capital Stock or other ownership interest in or assets or rights of an Unrestricted Subsidiary;
- (11) the Issuer may and the Issuer's Subsidiaries may make conveyances, sales, assignments or other dispositions that constitute Permitted Investments (excluding clauses (1), (2) and (3) in the definition thereof) and Restricted Payments not prohibited by Certain Covenants Limitation on Restricted Payments;
- (12) the Issuer may, and the Issuer's Subsidiaries may, in one or a series of related transactions, sell or dispose of assets for which the Issuer or the Issuer's Subsidiaries receive aggregate consideration of less than \$10,000,000;
- (13) a Subsidiary of the Issuer may dispose of property or assets to the Issuer and the Issuer or a Wholly-Owned Subsidiary of the Issuer may dispose of property or assets to another Wholly-Owned Subsidiary of the Issuer;
- (14) the Issuer and its Subsidiaries may to the extent allowable under Section 1031 of the Code or any comparable or successor provision, engage in any exchange of like property (excluding any boot thereon) for use in a Related Business;
- (15) the Issuer and its Subsidiaries may lease, assign or sub-lease any real or personal property in the ordinary course of business;
- (16) foreclosures, condemnation or any similar action on assets shall not be subject to this covenant;
- (17) the Issuer and its Subsidiaries may sell or discount inventory, accounts receivable or notes receivable in the ordinary course of business or convert accounts receivable to notes receivable in the ordinary course of business;

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(18) the Issuer and its Subsidiaries may unwind any Hedging Obligation; and

(19) the Issuer and its Subsidiaries may sell or otherwise dispose of property or assets described in Schedule 9.4 of the credit facility described in clause (1) of the definition of Credit Facility.

All Net Cash Proceeds in excess of \$10,000,000 from an Event of Loss shall be reinvested or used as otherwise provided above in clauses (a) or (b) or the first paragraph of this covenant.

Any Asset Sale Offer shall be made in compliance with all applicable laws, rules, and regulations, including, if applicable, Regulation 14E of the Exchange Act and the rules and regulations thereunder and all other applicable Federal and state securities laws. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this paragraph, the Issuer's compliance or the compliance of any of the Issuer's Subsidiaries with such laws and regulations shall not in and of itself cause a breach of the Issuer's obligations under this covenant.

If the payment date in connection with an Asset Sale Offer hereunder is on or after the Record Date for an Interest Payment Date and on or before the associated Interest Payment Date, any accrued and unpaid interest (and Liquidated Damages, if any) due on such Interest Payment Date will be paid to the Person in whose name a note is registered at the close of business on such Record Date.

The Credit Facilities limit, and future credit agreements or other agreements relating to Senior Indebtedness to which the Issuer becomes a party may prohibit or limit, the Issuer from purchasing any Notes pursuant to this Asset Sales covenant. In the event the Issuer is prohibited from purchasing the Notes, the Issuer could seek the consent of its lenders to the purchase of the Notes or could attempt to refinance the borrowings that contain such prohibition. If the Issuer does not obtain such consent or repay such borrowings, it will remain prohibited from purchasing the Notes. In such case, the Issuer's failure to purchase tendered Notes would constitute an Event of Default under the Indenture. If, as a result thereof, a default occurs with respect to any Senior Indebtedness, the subordination provisions in the Indenture would restrict payments to the Holders of the Notes under certain circumstances.

**Certain Covenants**

During any period of time that (a) the Notes have Investment Grade Ratings from both Rating Agencies and (b) no Default has occurred and is continuing under the Indenture (the occurrence of the events described in the foregoing clauses (a) and (b) being collectively referred to as a *Covenant Suspension Event*), the Issuer and the Issuer's Subsidiaries will not be subject to the covenants specifically listed under the following captions under this *Description of Notes* section of this prospectus (collectively, the *Suspended Covenant*):

- (1) Repurchase at the Option of Holders Change of Control;
- (2) Repurchase at the Option of Holders Asset Sales;
- (3) Limitation on Restricted Payments;
- (4) Limitation on Incurrence of Additional Indebtedness and Issuance of Disqualified Capital Stock;
- (5) clause (3) of the first paragraph of Merger, Consolidation or Sale of Assets;
- (6) Limitation on Transactions with Affiliates;
- (7) Limitation on Dividends and Other Payment Restrictions Affecting Subsidiaries;
- (8) Limitation on Subsidiary Guarantors; and
- (9) Limitations on Layering Indebtedness.

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In the event that the Issuer and the Issuer's Subsidiaries are not subject to the Suspended Covenant under the Indenture for any period of time as a result of the foregoing, and on any subsequent date (the *Reversion Date*) one or both of the Rating Agencies (x) withdraw their Investment Grade Rating or downgrade the rating assigned to such series of Notes below an Investment Grade Rating and/or (y) the Issuer or any of its Affiliates enters into an agreement to effect a transaction that would result in a Change of Control and one or more of the Rating Agencies indicate that if consummated, such transaction (alone or together with any related recapitalization or refinancing transactions) would cause such Rating Agency to withdraw its Investment Grade Rating or downgrade the ratings assigned to such series of Notes below an Investment Grade Rating, then the Issuer and the Issuer's Subsidiaries will thereafter again be subject to the Suspended Covenant under the Indenture with respect to future events, including, without limitation, a proposed transaction described in clause (y) of this paragraph. During the period when a Suspended Covenant is in effect (a *Suspension Period*), (A) the amount of Excess Proceeds from Asset Sales shall be reset to zero and (B) no action taken or omitted to be taken by the Issuer or any Subsidiary prior to the Reversion Date will give rise to a Default or Event of Default, *provided* that (i) with respect to Restricted Payments made after the Reversion Date, the amount of Restricted Payments made will be calculated as though the limitations contained under *Certain Covenants Limitation on Restricted Payments* had been in effect prior to, but not during such Suspension Period and (ii) all Indebtedness incurred, or Disqualified Capital Stock issued, during such Suspension Period will be deemed to have been incurred or issued pursuant to clause (e) under *Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock*.

There can be no assurance that the Notes will ever achieve or maintain Investment Grade Ratings.

***Limitation on Restricted Payments***

The Issuer shall not, and shall not permit any of the Issuer's Subsidiaries to, directly or indirectly, make any Restricted Payment if, after giving effect to such Restricted Payment on a *pro forma* basis:

- (1) a Default or an Event of Default shall have occurred and be continuing;
- (2) the Issuer is not permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Debt Incurrence Ratio set forth in the covenant described under *Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock*; or
- (3) the aggregate amount of all Restricted Payments made by the Issuer and the Issuer's Subsidiaries, including after giving effect to such proposed Restricted Payment on and after the Issue Date, would exceed, without duplication, the sum of:
  - (a) 50% of the Issuer's aggregate Consolidated Net Income for the period (taken as one accounting period) commencing on the first day of the first full fiscal quarter in which the Issue Date occurs to and including the last day of the most recent fiscal period for which internal financial statements are available (or, in the event Consolidated Net Income for such period is a deficit, then minus 100% of such deficit), plus
  - (b) the aggregate Net Cash Proceeds received by the Issuer from a Capital Contribution or from the sale of the Issuer's Equity Interests (other than Disqualified Capital Stock) or of debt securities of the Issuer that have been converted into or exchanged for Capital Stock of the Issuer (other than (i) to one of the Issuer's Subsidiaries, (ii) the Net Cash Proceeds received by the Issuer from a Capital Contribution or from the sale of the Issuer's Equity Interests in connection with the Merger and Related Financing Transactions, (iii) to the extent applied in connection with a Qualified Exchange, (iv) Excluded Contributions, or (v) used to make Restricted Payments pursuant to clause (a)(ii)(A) of the following paragraph, or, to avoid duplication, otherwise given credit for in any provision of the following paragraph), after the Issue Date, plus
  - (c) 100% of the aggregate amount received in cash, less the cost of disposition, by means of:
    - (i) the sale or other disposition (other than to the Issuer or a Subsidiary) of Restricted Investments made by the Issuer or its Subsidiaries and repurchases and redemptions of such

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Restricted Investments from the Issuer or its Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments by the Issuer or its Subsidiaries, in each case after the Issue Date; or

(ii) the sale (other than to the Issuer or a Subsidiary) of the stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than in each case to the extent the Investment in such Unrestricted Subsidiary was made by the Issuer or a Subsidiary pursuant to paragraph (i) of the following paragraph of this Restricted Payments covenant or to the extent such Investment constituted a Permitted Investment) or a dividend from an Unrestricted Subsidiary after the Issue Date; plus

(d) in the case of the redesignation of an Unrestricted Subsidiary as a Subsidiary after the Issue Date, the Fair Market Value of the Investment in such Unrestricted Subsidiary at the time of the redesignation of such Unrestricted Subsidiary as a Subsidiary, not to exceed the amount of Investments previously made by the Issuer or any Subsidiary in such Person through the designation of such Person as an Unrestricted Subsidiary, or to the extent such Investment constituted a Permitted Investment.

The foregoing clauses (1), (2) and (3) of the first paragraph of this Restricted Payments covenant, however, will not prohibit:

(a) (i) other Restricted Payments pursuant to this clause (a)(i) in an aggregate amount not to exceed \$10,000,000, and (ii) so long as no Default or Event of Default shall have occurred and be continuing, payments of cash dividends to any Parent Entity for repurchases of Equity Interests, or regardless of whether a Default or Event of Default shall have occurred and be continuing, Restricted Payments in the form of repurchase of Equity Interest in exchange for subordinated Indebtedness described in clause (13) of the definition of Permitted Indebtedness, in each case, from the Issuer's employees, distributors or directors (or their heirs or estates) or employees or directors (or their heirs or estates) of, any Parent Entity or any Subsidiary of the Issuer upon the death, disability, retirement or termination of employment, provided such repurchases are made with the proceeds of such dividends within ten Business Days of the payment of such dividends, provided, further, that, the aggregate amount of such repurchases (x) in any calendar year does not exceed \$5,000,000, with unused amounts in any calendar year being carried over to the immediately succeeding calendar year and (y) the aggregate amount of such repurchases after the Issue Date shall not exceed \$25,000,000 in the aggregate; *provided*, still further, that such amounts specified above relating to calendar and aggregate limits may be increased by an amount equal to

(A) the cash proceeds from the sale of Equity Interests (other than Disqualified Capital Stock) of the Issuer and, to the extent contributed to the Issuer, Equity Interests of any Parent Entity, in each case to members of management, directors or consultants of the Issuer, any of its Subsidiaries or any Parent Entity that occurs after the Issue Date, to the extent the cash proceeds from the sale of such Equity Interests are not Excluded Contributions and have not otherwise been applied to the payment of Restricted Payments by virtue of clause (3) of the first paragraph of this Restricted Payments covenant; plus

(B) the cash proceeds of key man life insurance policies received by the Issuer or any Subsidiary after the Issue Date; less

(C) the amount of any Restricted Payments previously made with the cash proceeds described in clauses (A) and (B) of this clause (a)(ii);

(b) so long as no Default or Event of Default shall have occurred and is continuing, the declaration and payment of dividends to holders of any class or series of Disqualified Capital Stock issued after the Issue Date in accordance with this Restricted Payments covenant to the extent such dividends are included in the definition of Consolidated Fixed Charges;

(c) the repurchase, redemption or other acquisition or retirement for value of Indebtedness that is contractually subordinated to the Notes or any Guarantee (i) with Excess Proceeds to the extent such Excess

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Proceeds are permitted to be used for general corporate purposes under the covenant described under Repurchase at the Option of Holders Asset Sales or (ii) with, after the completion of a Change in Control Offer pursuant to the terms of the covenant described under Repurchase at the Option of Holders Change of Control , cash offered to redeem Notes pursuant to such Change of Control Offer less any cash paid to Holders of the Notes pursuant to such Change in Control Offer;

(d) the declaration and payment of any dividend, distribution or other payments by any of the Issuer s Subsidiaries on its Equity Interests that is paid pro rata to all holders of such Equity Interests;

(e) a Qualified Exchange;

(f) the payment of any dividend on shares of Capital Stock within 60 days after the date of its declaration if such dividend could have been made on the date of such declaration in compliance with the foregoing provisions;

(g) the repurchase of Equity Interests deemed to occur upon the exercise of stock options, warrants or other convertible securities to the extent such Equity Interests represent a portion of the exercise price thereof;

(h) payments to a Parent Entity (or a subsidiary of a Parent Entity), pursuant to this clause (h), (1) to enable the Parent Entity to pay Federal, state or local tax liabilities (any such payments to a Parent Entity, a *Tax Payment* ), not to exceed the amount of any tax liabilities that would be otherwise payable by the Issuer and its United States subsidiaries to the appropriate taxing authorities to the extent that the Parent Entity has an obligation to pay such tax liabilities relating to the operations, assets, or capital of the Issuer or its United States subsidiaries; *provided that* (x) notwithstanding the foregoing, in the case of determining the amount of a Tax Payment that is permitted to be paid by the Issuer and any of its United States subsidiaries in respect of their consolidated Federal income tax liability, or consolidated, combined, unitary or group, state or local income tax liability, such payment shall be determined assuming that the Issuer is the parent company of an affiliated group (the *Company Affiliated Group* ) filing a consolidated Federal income tax return or consolidated, combined, unitary, or group, state or local income tax return, and that the Parent Entity and each such United States subsidiary is a member of the Issuer Affiliated Group and (y) any Tax Payments shall either be used by the Parent Entity to pay such tax liabilities within 90 days of the Parent Entity s (or a subsidiary of a Parent Entity) receipt of such payment or refunded to the payee, (2) in an aggregate amount not to exceed \$1,000,000 during any calendar year, in each case in order to pay legal and accounting expenses, payroll and other compensation expenses in the ordinary course of business, and filing and listing fees and other corporate overhead expenses in the ordinary course of business, and (3) in order to pay the fees and expenses, other than to Affiliates of the Issuer, related to any unsuccessful equity of such Parent Entity. For purposes of this clause (h), tax liabilities shall include any penalties and interest related to a tax liability;

(i) payments of cash, or dividends, distributions or advances to any Parent Entity to make payments of cash, in lieu of the issuance of fractional shares upon the exercise of warrants or upon the conversion or exchange of, or issuance of Capital Stock in lieu of cash dividends on, any Capital Stock of any Parent Entity, up to an aggregate amount pursuant to this clause (i) not to exceed \$1,000,000;

(j) Restricted Payments that are made with Excluded Contributions; and

(k) any Restricted Payment made in connection with the Merger and the Related Financing Transactions and the fees and expenses related thereto.

The full amount of any Restricted Payment made pursuant to the foregoing clauses (b), (c) and (d) (but not pursuant to clause (a), (e), (f), (g), (h), (i), (j), and (k)) of the immediately preceding sentence, however, will be counted as Restricted Payments made for purposes of the calculation of the aggregate amount of Restricted Payments available to be made referred to in clause (3) of the first paragraph of this Restricted Payments covenant.



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For purposes of this Restricted Payments covenant, the amount of any Restricted Payment made or returned, if other than in cash, shall be the Fair Market Value thereof, as determined in the good faith reasonable judgment of the Issuer's Board of Directors, unless stated otherwise, at the time made or returned, as applicable.

***Limitation on Incurrence of Additional Indebtedness and Issuance of Disqualified Capital Stock***

Except as set forth in this covenant, the Issuer shall not and shall not permit any of the Subsidiaries to, directly or indirectly, issue, assume, guaranty, incur, become directly or indirectly liable with respect to (including as a result of an acquisition), or otherwise become responsible for, contingently or otherwise (individually and collectively, to *incur* or, as appropriate, an *incurrence*), any Indebtedness (including Disqualified Capital Stock and Acquired Indebtedness), other than Permitted Indebtedness.

Notwithstanding the foregoing if:

(1) no Default or Event of Default shall have occurred and be continuing at the time of, or would occur after giving effect on a *pro forma* basis to, such incurrence of Indebtedness and the use of proceeds thereof; and

(2) on the date of such incurrence (the *Incurrence Date*), the Issuer's Consolidated Coverage Ratio for the Reference Period immediately preceding the Incurrence Date for which internal financial statements of the Issuer are available, after giving effect on a *pro forma* basis to such incurrence of such Indebtedness and the use of proceeds thereof, would be at least 2.0 to 1.0 (the *Debt Incurrence Ratio*), then the Issuer and the Guarantors may incur such Indebtedness (including Disqualified Capital Stock and Acquired Indebtedness).

In addition, the foregoing limitations of the first and second paragraphs of this covenant will not prohibit:

(a) the Issuer's incurrence or the incurrence by any Subsidiary of (1) Purchase Money Indebtedness, and any Refinancing Indebtedness in respect thereof; *provided that* (A) the amount of such Indebtedness shall not constitute more than 100% of the Issuer's cost or the cost to such Subsidiary (determined in accordance with GAAP in good faith by the Issuer), as applicable, of the property so purchased, constructed, improved or leased, (B) such Indebtedness is not incurred to acquire the Capital Stock of any Person, and (C) the aggregate amount of such Indebtedness incurred and outstanding at any time pursuant to this clause (1) shall not exceed \$50,000,000; (2) Capital Lease Obligations; (3) Indebtedness for the financing of insurance premiums; and (4) any Refinancing of Indebtedness described in clause (2) or (3); *provided, that* the aggregate amount of such Indebtedness incurred and outstanding at any time pursuant to clauses (2), (3) and (4) of this clause (a) shall not exceed \$20,000,000,

(b) the Issuer's incurrence or the incurrence by any Guarantor of Indebtedness in an aggregate amount incurred and outstanding at any time pursuant to this clause (b) (including any Refinancing Indebtedness in respect thereof) of up to \$25,000,000;

(c) the Issuer's incurrence or the incurrence by any Subsidiary of Indebtedness pursuant to the Credit Facilities in an aggregate amount incurred and outstanding at any time pursuant to this clause (c) (including any Refinancing Indebtedness in respect thereof) of up to \$1,225,000,000, with letters of credit being deemed to have a principal amount equal to the full amount thereof, minus the amount of any such Indebtedness (1) retired with the Net Cash Proceeds from any Asset Sale applied to permanently reduce the outstanding amounts or the commitments with respect to such Indebtedness pursuant to clause (b) of the third paragraph of the covenant described under *Repurchase at the Option of Holders' Asset Sales* or (2) assumed by a transferee in an Asset Sale;

(d) the incurrence by any Foreign Subsidiary in an aggregate amount incurred and outstanding at any time pursuant to this clause (d) (including any Refinancing Indebtedness in respect thereof) of up to \$20,000,000; and

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(e) Existing Indebtedness and the incurrence by the Issuer or any Subsidiary of the Issuer of any Refinancing Indebtedness in respect thereof.

For purposes of determining compliance with this covenant:

(i) Indebtedness (including Disqualified Capital Stock) of any Person which is outstanding at the time such Person becomes one of the Issuer's Subsidiaries (including upon designation of any subsidiary or other Person as a Subsidiary) or is merged with or into or consolidated with the Issuer or one of the Issuer's Subsidiaries shall be deemed to have been incurred at the time such Person becomes or is designated one of the Issuer's Subsidiaries or is merged with or into or consolidated with the Issuer or one of the Issuer's Subsidiaries as applicable.

(ii) Notwithstanding any other provision of this covenant, but only to avoid duplication, a guarantee of the Issuer's Indebtedness or of the Indebtedness of a Subsidiary incurred in accordance with the terms of the Indenture will not constitute a separate incurrence, or amount outstanding, of Indebtedness. Upon each incurrence the Issuer may designate (and later redesignate) in the Issuer's sole discretion pursuant to which provision of this covenant or the definition of Permitted Indebtedness any Indebtedness is being incurred and the Issuer may subdivide an amount of Indebtedness and designate (and later redesignate) more than one such provision pursuant to which such amount of Indebtedness is being incurred and such Indebtedness shall not be deemed to have been incurred or outstanding under any other provision of this covenant or the definition of Permitted Indebtedness. Accrual of interest or dividends on Disqualified Capital Stock, the accretion of accreted value, the payment of interest or dividends on Disqualified Capital Stock paid in kind, changes in obligations in respect of Hedging Obligations, and any increase as a result of currency fluctuations will not be deemed to be an incurrence of Indebtedness for purposes of this covenant.

(iii) For the avoidance of doubt, outstanding Indebtedness shall be determined without duplication of Refinancing Indebtedness in respect thereof.

(iv) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced.

(v) The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

***Limitations on Liens***

The Issuer shall not and the Guarantors shall not, and neither the Issuer nor the Guarantors shall permit any of the Issuer's Subsidiaries to, create, incur, assume or suffer to exist any Lien of any kind, other than Permitted Liens, upon any of their respective assets now owned or acquired on or after the Issue Date or upon any income or profits therefrom securing any of the Issuer's Indebtedness or any Indebtedness of any Guarantor, unless the Issuer provides, and cause the Issuer's Subsidiaries to provide, concurrently therewith, that the Notes and the applicable Guarantees are equally and ratably so secured for so long as such other Indebtedness is secured by such Lien; *provided* that if such Indebtedness is Subordinated Indebtedness, the Lien securing such Subordinated Indebtedness shall be contractually subordinate and junior to the Lien securing the Notes (and any related

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applicable Guarantees) with the same relative priority as such Subordinated Indebtedness shall have with respect to the Notes (and any related applicable Guarantees).

***Merger, Consolidation or Sale of All or Substantially All Assets***

The Issuer shall not consolidate with or merge with or into another Person or, directly or indirectly, sell, lease, convey or transfer all or substantially all of the Issuer's assets (such amounts to be computed on a consolidated basis), whether in a single transaction or a series of related transactions, to another Person or group of affiliated Persons or adopt a plan of liquidation, unless:

- (1) either (a) the Issuer is the continuing entity or (b) the resulting, surviving or transferee entity or, in the case of a plan of liquidation, the entity which receives the greatest value from such plan of liquidation, is a corporation organized under the laws of the United States, any state thereof or the District of Columbia and expressly assumes by supplemental indenture all of the Issuer's obligations in connection with the Notes and the Indenture;
- (2) no Default or Event of Default shall exist or shall occur immediately after giving effect on a *pro forma* basis to such transaction;
- (3) unless such transaction is solely the merger of the Issuer and one of the Issuer's previously existing Wholly Owned Subsidiaries which is also a Guarantor for the purpose of reincorporation into another jurisdiction, which transaction is not for the purpose of evading the restrictions imposed by the Indenture, immediately after giving effect to such transaction on a *pro forma* basis, either (a) the consolidated resulting, surviving or transferee entity would immediately thereafter be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Debt Incurrence Ratio set forth in the covenant described under Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock or (b) so long as the Debt Incurrence Ratio prior to such transaction is greater than 1.25 to 1.0, the Debt Incurrence Ratio for the resulting, surviving or transferee entity would be greater than such ratio for the Issuer and its Subsidiaries immediately prior to such transaction; and
- (4) each Guarantor (unless it is the other party to the transactions described above, in which case clause (1)(b) above shall apply) shall have, by amendment to its Guarantee set forth in the Indenture, if necessary confirmed in writing that its Guarantee shall apply to the obligations of the Issuer or the surviving entity in accordance with the Notes and the Indenture.

Notwithstanding clauses (2) and (3) of this covenant, (a) any Subsidiary may consolidate with or merge into or transfer all or part of its properties and assets to the Issuer, and (b) the Issuer may merge with an Affiliate of the Issuer solely for the purpose of reorganizing the Issuer in the United States, any state thereof, the District of Columbia or any territory thereof so long as the amount of Indebtedness of the Issuer and its Subsidiaries is not increased thereby.

Upon any consolidation or merger or any transfer of all or substantially all of the Issuer's assets in accordance with the foregoing, the successor corporation formed by such consolidation or into which the Issuer is merged or to which such transfer is made shall succeed to and (except in the case of a lease or any transfer of all or substantially all of the Issuer's assets) be substituted for, and may exercise every right and power of, the Issuer under the Indenture with the same effect as if such successor corporation had been named therein as the Issuer, and (except in the case of a lease or any transfer of all or substantially all of the Issuer's assets) the Issuer shall be released from the obligations under the Notes and the Indenture except with respect to any obligations that arise from, or are related to, such transaction.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise) of all or substantially all of the properties and assets of one or more Subsidiaries, the Issuer's interest in which constitutes all or substantially all of the Issuer's properties and assets, shall be deemed to be the transfer of all or substantially all of the Issuer's properties and assets.

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***Limitation on Transactions with Affiliates***

Neither the Issuer nor any of the Issuer's Subsidiaries shall enter into or amend any contract, agreement, arrangement or transaction with any Affiliate (an *Affiliate Transaction*), or any series of related Affiliate Transactions (other than Exempted Affiliate Transactions),

- (1) unless it is determined that the terms of such Affiliate Transactions are fair and reasonable to the Issuer, and no less favorable to the Issuer than could have been obtained in an arm's length transaction with a non-Affiliate,
- (2) if involving consideration to either party in excess of \$10,000,000, unless such Affiliate Transaction(s) has been approved by a majority of the members of the Issuer's Board of Directors (including a majority of members of the Issuer's Board of Directors that are disinterested in such transaction, if there are any directors who are so disinterested), and
- (3) if involving consideration to either party in excess of \$20,000,000, unless, in addition the Issuer, prior to the consummation thereof, obtain a written favorable opinion, which opinion can be subject to customary qualifications, as to the fairness of such transaction to the Issuer from a financial point of view from an independent investment banking firm of national reputation in the United States or an appraisal or valuation firm of national reputation in the United States.

Within 10 days of any Affiliate Transaction(s) involving consideration to either party of \$10,000,000 or more (other than Exempted Affiliate Transactions), the Issuer shall deliver to the Trustee an Officer's Certificate addressed to the Trustee certifying that such Affiliate Transaction(s) were made in compliance with the Indenture and a copy of the board resolutions and opinion as to the fairness of such transaction, as applicable.

***Limitation on Dividends and Other Payment Restrictions Affecting Subsidiaries***

The Issuer shall not and the Guarantors shall not, and neither the Issuer nor the Guarantors shall permit any of the Issuer's Subsidiaries to, directly or indirectly, create, assume or suffer to exist any consensual restriction on the ability of any of the Issuer's Subsidiaries to pay dividends or make other distributions to or on behalf of, or to pay any obligation to or on behalf of, or otherwise to transfer assets or property to or on behalf of, or make or pay loans or advances to or on behalf of, the Issuer or any of the Issuer's Subsidiaries, except:

- (1) restrictions imposed by the Notes or the Indenture or by the Issuer's other Indebtedness (which may also be guaranteed by the Guarantors) ranking senior or pari passu with the Notes or the Guarantees, as applicable, provided that such restrictions are no more restrictive taken as a whole than those imposed by the Indenture and the Notes;
- (2) restrictions imposed by applicable law;
- (3) existing restrictions on Existing Indebtedness and restrictions that are no more restrictive, taken as a whole, than such existing restrictions, on Refinancing Indebtedness thereof;
- (4) restrictions under any Acquired Indebtedness not incurred in violation of the Indenture or any agreement (including any Equity Interest) relating to any property, asset, or business acquired by the Issuer or any of the Issuer's Subsidiaries, which restrictions in each case existed at the time of acquisition, were not put in place in connection with or in anticipation of such acquisition and are not applicable to any Person, other than the Person acquired, or to any property, asset or business, other than the property, assets and business so acquired;
- (5) restrictions imposed by Indebtedness incurred under the Credit Facilities or other Senior Indebtedness incurred pursuant to the covenant described under *Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock*; *provided* that such restrictions are no more restrictive, taken as a whole, than those imposed by the Credit Facilities;

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(6) restrictions with respect solely to any of the Issuer's Subsidiaries imposed pursuant to a binding agreement which has been entered into for the sale or disposition of all or substantially all of the Equity Interests or any assets of such Subsidiary; *provided* that such restrictions apply solely to the Equity Interests or assets of such Subsidiary which are being sold or, in the case of a sale of all or substantially all of the Equity Interests of a Subsidiary, the cash or Cash Equivalents held by such Subsidiary;

(7) restrictions on transfer contained in Purchase Money Indebtedness incurred pursuant to the covenant described under Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock; *provided* that such restrictions relate only to the transfer of the property acquired, constructed, installed or improved with the proceeds of such Purchase Money Indebtedness;

(8) customary provisions with respect to joint venture agreements and other similar agreements;

(9) restrictions contained in Indebtedness incurred under clause (b) under the covenant described under Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock;

(10) restrictions contained in Indebtedness incurred by a Foreign Subsidiary in accordance with the covenant described under Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock; *provided* that such restrictions relate only to one or more Foreign Subsidiaries;

(11) reserved;

(12) customary restrictions on deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(13) customary provisions contained in leases, licenses or similar agreements, including those with respect to intellectual property and other agreements, in each case entered into in the ordinary course of business;

(14) customary restrictions contained in any Hedging Obligation that is Permitted Indebtedness; and

(15) in connection with and pursuant to permitted refinancings, amendments, modifications, restatements, renewals, increases, supplements, refundings or replacements of restrictions imposed pursuant to clauses (1), (3), (4), (7), (14) or this clause (15) of this paragraph that are not more restrictive taken as a whole than those being replaced and do not apply to any other Person or assets than those that would have been covered by the restrictions in the Indebtedness so refinanced.

Notwithstanding the foregoing, (a) customary provisions restricting subletting or assignment of any lease entered into in the ordinary course of business, consistent with industry practice shall not be prohibited by the foregoing and (b) any asset subject to a Lien which is not prohibited to exist with respect to such asset pursuant to the terms of the Indenture may be subject to customary restrictions on the transfer or disposition thereof pursuant to such Lien.

***Subsidiary Guarantors***

The Issuer shall cause all of the Issuer's present and future Subsidiaries that guarantee the obligations of the Issuer or any Subsidiary (other than solely obligations of one or more Foreign Subsidiaries) under the Credit Facilities, to jointly and severally guarantee all principal, premium, if any, and interest on the Notes on a senior subordinated basis.

If any of the Issuer's Subsidiaries (including Foreign Subsidiaries) that is not a Guarantor guarantees any of the Issuer's other Indebtedness or any other Indebtedness of the Guarantors, or the Issuer or any of the Issuer's Subsidiaries, individually or collectively, pledges more than 66% of the Voting Equity Interests of a Subsidiary (including Foreign Subsidiaries) that is not a Guarantor to a lender to secure the Issuer's Indebtedness or any Indebtedness of any Guarantor, then such Subsidiary must become a Guarantor.

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### ***Limitation on Layering Indebtedness***

The Issuer shall not and the Guarantors shall not, directly or indirectly, incur or suffer to exist any Indebtedness that is contractually subordinate in right of payment to any of the Issuer's other Indebtedness or any other Indebtedness of a Guarantor unless, by its terms, such Indebtedness is contractually subordinate in right of payment to, or ranks pari passu with, the Notes or the Guarantee, as applicable.

The Issuer shall not and the Guarantors shall not, directly or indirectly, incur or suffer to exist (a) any Indebtedness that is secured by any Liens that have any form of subordinated lien priority with respect to the Liens securing any other Indebtedness of the Issuer or any of the Guarantors, or (b) any Indebtedness secured by a common Lien with other Indebtedness, subject to a payment waterfall or similar arrangement whereby one item of Indebtedness has priority over the other in its right to receive proceeds of collateral covered by such common Lien, in each case, other than:

(1) Indebtedness incurred under the Credit Facilities pursuant to clause (c) of the covenant described under *Certain Covenants - Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock* may be secured by Liens with respect to assets (the *Purchase Money Debt Common Collateral*) which also secure Purchase Money Indebtedness incurred pursuant to clause (a) of the covenant described under *Certain Covenants - Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock* and the Liens securing the Credit Facilities may have a subordinate priority with respect to the Purchase Money Debt Common Collateral to the Liens securing such Purchase Money Indebtedness; and

(2) if any of the Indebtedness incurred under the Credit Facilities pursuant to clause (c) of the covenant described under *Repurchase at the Option of Holders - Asset Sales* is incurred pursuant to an asset based-revolving loan facility (the *ABL Facility*) that makes credit available based on the value of the obligors' current assets that are collateral for such facility (the *ABL Common Collateral*) and at the same time Indebtedness is incurred under the Credit Facilities pursuant to clause (c) of the covenant described under *Repurchase at the Option of Holders - Asset Sales* in the form of one or more term loans (the *Term Loans*), the Liens securing the Term Loans may have a subordinate priority, consistent with customary practice, with respect to any of the ABL Common Collateral, to the Liens securing the ABL Facility, and the Liens securing the ABL Facility may have a subordinate priority, consistent with customary practice, with respect to any of the assets securing the Term Loans, to the Liens securing the Term Loans.

### ***Reports and Other Information***

Whether or not the Issuer is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, the Issuer will deliver to the Trustee, within 5 days after the Issuer is or would have been (if the Issuer was subject to such reporting obligations) required to file such with the Commission, annual and quarterly financial statements substantially equivalent to financial statements that would have been included in reports if the Issuer were subject to the requirements of Section 13 or 15(d) of the Exchange Act, including, with respect to annual information only, a report thereon by the Issuer's certified independent public accountants, and, in each case, together with a management's discussion and analysis of financial condition and results of operations which would be so required and, from and after the registration of the Notes pursuant to the Registration Rights Agreement, unless the Commission will not accept such reports, file with the Commission the annual, quarterly and other reports which it is or would have been required to file with the Commission; *provided, however*, that, unless otherwise required pursuant to the rules and regulations of the Commission, (A) consolidating footnotes as required by Rule 3-10 of Regulation S-X in any such financial statements will not be required for financial statement provided in respect of any financial period ending prior to December 31, 2007, (B) no certifications or attestations concerning the financial statements or disclosure controls and procedures or internal controls that would otherwise be required pursuant to the Sarbanes-Oxley Act of 2002 will be required to be included in or accompany any financial statements, (C) financial statements shall not be required to include any financial schedules required by Regulation S-X, (D) financial statements shall not be required pursuant to Rule 3-05 of Regulation S-X except in respect of completed acquisitions for the most recent fiscal year of the acquired

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business and subsequent interim periods, and shall not be required to include more information than the financial statements of the Issuer, and (E) no financial statements of unconsolidated entities that would be required pursuant to Rule 3-09 of Regulation S-X shall be required.

Unless the information required by this covenant to be delivered is electronically available on EDGAR (or any successor system for reports with the Commission), including on a registration statement on Form S-4, the Issuer will distribute such information and such reports electronically to the Trustee, and will make them available upon request to any Holder, any beneficial owner of the Notes, any prospective investor, any securities analyst and any market maker in the Notes by posting such information and reports on the Issuer's website, Intralinks or any comparable online data system and the provision of such information through such online data system shall satisfy the Issuer's obligation to deliver such information pursuant to this covenant.

In the event that (1) the rules and regulations of the Commission permit the Issuer and any Parent Entity to report at such Parent Entity's level on a consolidated basis and (2) such Parent Entity is not engaged in any business in any material respect other than incidental to its ownership, directly or indirectly, of the Capital Stock of the Issuer and its Affiliates, the information and reports required by this covenant may be those of such Parent Entity on a consolidated basis; *provided* that such information and reports distinguish in all material respects between the Issuer and its Subsidiaries and such Parent Entity and its other subsidiaries, if any; *provided, further*, that if such Parent Entity's capitalization (including cash, Cash Equivalents and Indebtedness) differs from that of the Issuer and its Subsidiaries in any material respect, such information and reports will include annual and quarterly financial statements substantially equivalent to the financial statements that would have been included in reports filed with the Commission, if the Issuer were subject to the requirements of Section 13 or 15(d) of the Exchange Act, including, with respect to annual information only, a report thereon by the Issuer's certified independent public accountants.

To the extent not satisfied by the foregoing, for so long as any Notes remain outstanding, Holders and prospective purchasers that are qualified institutional buyers (as that term is defined in Rule 144A under the Securities Act) shall have the right to obtain from the Issuer and the Guarantors, upon request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

The Issuer will not be deemed to have failed to comply with any of its obligations under the foregoing clauses of this covenant for purposes of clause (c) under Events of Default and Remedies until 30 days after the date any financial statements or reports hereunder are due.

The Issuer will hold a conference call for all the Holders and securities analysts to discuss such financial information no later than (i) ten Business Days after distribution of such information in the case of quarterly financial information other than for the end of a fiscal year, and (ii) fifteen Business Days after the distribution of such information in the case of annual financial information, and, in each case, will give prior notice to Holders of such calls at least two Business Days prior to such conference call. The Issuer will not be deemed to have failed to comply with any of its obligations under the foregoing for purposes of clause (c) under Events of Default and Remedies until 10 days after receipt of a written notice from the Trustee or Holders of 25% of the outstanding Notes directing the Issuer to hold such conference call.

***Maintenance of Properties and Insurance***

The Issuer and the Guarantors shall cause all material properties used or useful to the conduct of their business and the business of each of their Subsidiaries to be maintained and kept in good condition, repair and working order (reasonable wear and tear excepted) and supplied with all necessary equipment and shall cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in their reasonable judgment may be necessary, so that the business carried on in connection therewith may be properly conducted at all times; *provided, however*, that nothing in this covenant shall prevent the Issuer or any Guarantor from discontinuing any operation or maintenance of any of such properties, or disposing of any of them, if such

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discontinuance or disposal is (a) (i) in the judgment of the Board of Directors of the Issuer, desirable in the conduct of the business of such entity and (ii) would not have a material adverse effect on the ability of the Issuer and the Guarantors to satisfy their obligations under the Notes, the Guarantees and the Indenture, and, to the extent applicable, (b) as otherwise permitted under the covenant described under Repurchase at the Option of Holders Asset Sales.

The Issuer and Guarantors shall provide, or cause to be provided, for themselves and each of their Subsidiaries, insurance (including appropriate self-insurance) against loss or damage of the kinds that, in the reasonable, good faith opinion of the Board of Directors of the Issuer is adequate and appropriate for the conduct of the business of the Issuer, the Guarantors and such Subsidiaries.

**Events of Default and Remedies**

The Indenture provides that *Event of Default* means any one of the following events:

(a) the Issuer's failure to pay any installment of interest (or Liquidated Damages, if any) on the Notes as and when the same becomes due and payable and the continuance of any such failure for 30 days;

(b) the Issuer's failure to pay all or any part of the principal, or premium, if any, on the Notes when and as the same becomes due and payable at maturity, redemption, by acceleration or otherwise, including, without limitation, payment of the Change of Control Purchase Price or the Asset Sale Offer Price, on Notes validly tendered and not properly withdrawn pursuant to a Change of Control Offer or Asset Sale Offer, as applicable;

(c) the Issuer's failure or the failure by any of the Issuer's Subsidiaries to observe or perform any other covenant or agreement contained in the Notes or the Indenture and, except for the provisions of the caption Principal, Maturity, Interest and HYDO Redemption, the covenant described under Repurchase at the Option of Holders Change of Control, and the caption Merger, Consolidation or Sale of Assets, the continuance of such failure for a period of 30 days after written notice is given to the Issuer by the Trustee or to the Issuer and the Trustee by the Holders of at least 25% in aggregate principal amount of the Notes outstanding (provided that, if applicable, failure by the Issuer or any Guarantor to comply with the provisions of Section 314(a) of the TIA will not in itself be deemed a Default or an Event of Default under the Indenture);

(d) a default in the Issuer's Indebtedness or the Indebtedness any of the Issuer's Subsidiaries with an aggregate amount outstanding in excess of \$25,000,000 (i) resulting from the failure to pay principal at maturity or (ii) as a result of which the maturity of such Indebtedness has been accelerated prior to its stated maturity;

(e) final unsatisfied judgments not covered by insurance aggregating in excess of \$25,000,000, at any one time rendered against the Issuer or any of the Issuer's Subsidiaries and not paid, stayed, bonded or discharged within 60 days after such judgments become final;

(f) any Guarantee of a Guarantor that is a Significant Subsidiary ceases to be in full force and effect or becomes unenforceable or invalid or is declared null and void (other than in accordance with the terms of the Guarantee and the Indenture) or any Guarantor denies or disaffirms its Obligations under its guarantee; or

(g) certain events of bankruptcy or insolvency with respect to the Issuer or any Significant Subsidiary.

If a Default occurs and is continuing, the Trustee must, within 90 days after the receipt of notice of such Default, give to the Holders notice of such Default.

If an Event of Default occurs and is continuing (other than an Event of Default specified in clause (g) above relating to the Issuer or any of the Issuer's Significant Subsidiaries,) then in every such case, unless the principal of all of the Notes shall have already become due and payable, either the Trustee or the Holders of at least 25% in



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aggregate principal amount of the Notes then outstanding, by notice in writing to the Issuer (and to the Trustee if given by Holders) (an *Acceleration Notice* ), may declare all principal, determined as set forth below, and accrued interest (and Liquidated Damages, if any) thereon to be due and payable immediately; provided, however, that if any Senior Indebtedness is outstanding pursuant to the Credit Facilities, upon a declaration of such acceleration, such principal and interest shall be due and payable upon the earlier of (x) the fifth Business Day after sending the Issuer and the representative under the Credit Facilities such written notice, unless such Event of Default is cured or waived prior to such date and (y) the date of acceleration of any Senior Indebtedness under the Credit Facilities. In the event a declaration of acceleration resulting from an Event of Default described in clause (d) above has occurred and is continuing, such declaration of acceleration shall be automatically annulled if (i) the Indebtedness or Guarantee that is the basis for such Event of Default has been discharged, (ii) such default is cured, (iii) such default is waived or (iv) the Holders of the Indebtedness which is the subject of such default have rescinded their declaration of acceleration in respect of such Indebtedness within 30 days thereof and, with respect to clauses (iii) or (iv), the Trustee has received written notice of such waiver or rescission within 30 days of the declaration of such acceleration in respect of such Indebtedness. If an Event of Default specified in clause (g) above, relating to the Issuer or any of the Issuer's Significant Subsidiaries occurs, all principal and accrued interest (and Liquidated Damages, if any) thereon will be immediately due and payable on all outstanding Notes without any declaration or other act on the part of the Trustee or the Holders. The Holders of a majority in aggregate principal amount of Notes generally are authorized to rescind such acceleration if all existing Events of Default, other than the non-payment of the principal of, premium, if any, and interest (and Liquidated Damages, if any) on the Notes which have become due solely by such acceleration, have been cured or waived.

The Indenture provides that, prior to the declaration of acceleration of the maturity of the Notes, the Holders of a majority in aggregate principal amount of the Notes at the time outstanding may waive on behalf of all the Holders any Default, except a Default in the payment of principal of or interest on any Note not yet cured or a Default with respect to any covenant or provision which cannot be modified or amended without the consent of the Holder of each outstanding Note affected.

The Holders of a majority in aggregate principal amount of the then outstanding Notes, by written notice to the Trustee, may, on behalf of all of the Holders, rescind an acceleration or waive any existing Default or Event of Default and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest, premium or Liquidated Damages, if any, that has become due solely because of the acceleration have been cured or waived).

However, no waiver shall be effective against any Holder for any Event of Default or event which with notice or lapse of time or both would be an Event of Default with respect to any covenant or provision which cannot be modified or amended without the consent of the Holder of each outstanding Note affected thereby, unless all such affected Holders agree, in writing, to waive such Event of Default or other event. No such waiver shall cure or waive any subsequent default.

Subject to the provisions of the Indenture relating to the duties of the Trustee thereunder, the Trustee will be under no obligation to exercise any of the rights or powers under the Indenture at the request or direction of any of the Holders unless the Holders have offered to the Trustee reasonable security or indemnity. Except to enforce the right to receive payment of principal of, premium and Liquidated Damages, if any, and interest when due, a Holder of a Note may pursue a remedy with respect to the Indenture or the Notes only if:

- (a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;
- (b) the Holders of at least 25% in aggregate principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;
- (c) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any costs, liability or expense;

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(d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and

(e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

Subject to certain restrictions, under the Indenture the Holders of at least a majority in aggregate principal amount of the then outstanding Notes are given the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or the Indenture, that the Trustee determines in good faith may be unduly prejudicial to the rights of the other Holders of the Notes not joining in the giving of such direction or that may involve the Trustee in personal liability, and the Trustee may take any other action it deems proper that is not inconsistent with any such direction received from Holders of the Notes.

The Indenture provides that the Issuer is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Issuer is required, within five Business Days after becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default and what action the Issuer is taking or proposes to take with respect thereto.

**No Personal Liability of Directors, Officers, Employees and Stockholders**

No direct or indirect stockholder, employee, officer or director, as such, past, present or future of the Issuer, the Guarantors or any successor entity shall have any personal liability in respect of the Issuer's obligations or the obligations of the Guarantors under the Indenture or the Notes solely by reason of his or its status as such stockholder, employee, officer or director, except that this provision shall in no way limit the obligation of any Guarantor pursuant to any guarantee of the Notes. Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the Commission that such a waiver is against public policy.

**Legal Defeasance and Covenant Defeasance**

The Issuer may, at its option and at any time, elect to have each of the Issuer and the Guarantors, as applicable, discharged from its obligations with respect to all outstanding Notes and Guarantees, as applicable ( *Legal Defeasance* ), except for:

(a) the rights of Holders of Notes to receive payments in respect of the principal of, premium, if any, and interest and Liquidated Damages, if any, on the Notes when such payments are due solely out of the trust created pursuant to the Indenture;

(b) the Issuer's obligations with respect to Notes concerning authentication and delivery of Notes, issuing temporary Notes, registration of Notes and transfer and exchanges of Notes, mutilated, destroyed, lost or stolen Notes, the maintenance of an office or agency for registration and for payment and money held in trust, payment of defaulted interest and certain similar matters;

(c) the rights, powers, trusts, duties and immunities of the Trustee, and the Issuer's obligations in connection therewith; and

(d) the Legal Defeasance provisions of the Indenture.

In addition, the Issuer may, at its option and at any time, elect to have its obligations and those of each Guarantor released with respect to substantially all of the restrictive covenants in the Indenture ( *Covenant Defeasance* ) and thereafter any omission to comply with such obligations shall not constitute a Default or Event of Default with respect to the Notes. In the event Covenant Defeasance occurs, certain events (not including the

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payment of principal, premium, if any, interest and Liquidated Damages, if any) described under Events of Default and Remedies will no longer constitute an Event of Default with respect to the Notes.

In order to exercise either Legal Defeasance or Covenant Defeasance with respect to the Notes:

(a) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in United States legal tender, U.S. Government Obligations, or a combination thereof, in amounts that will be sufficient, in the opinion of a nationally recognized firm of independent public accountants which opinion can be subject to customary qualifications, to pay the principal of, premium, if any, and Liquidated Damages, if any, and interest on the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Trustee must have, for the benefit of Holders of the Notes, a valid, perfected exclusive security interest in such trust;

(b) in the case of Legal Defeasance, the Issuer must deliver to the Trustee an Opinion of Counsel which opinion can be subject to customary qualifications reasonably acceptable to the Trustee confirming that (A) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the date of the Indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Issuer must deliver to the Trustee an Opinion of Counsel which opinion can be subject to customary qualifications reasonably acceptable to the Trustee confirming that Holders of the Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness, and in each case the granting of Liens in connection therewith) shall have occurred and be continuing on the date of the deposit and, in the case of Legal Defeasance, no Event of Default specified in clause (g) under Events of Default and Remedies may occur at any time from the date of the deposit to the 91st calendar day thereafter;

(e) the Defeasance may not result in a breach or violation of, or constitute a Default under the Indenture or a default under any other material agreement or instrument to which the Issuer or any of its Subsidiaries is a party or by which the Issuer or any of its Subsidiaries is bound;

(f) the Issuer must deliver to the Trustee an Officers Certificate stating that the deposit was not made by the Issuer with the intent to hinder, delay or defraud any other of the Issuer's creditors; and

(g) the Issuer must deliver to the Trustee an Officers Certificate confirming the satisfaction of the conditions in clauses (a) through (f) above, and an Opinion of Counsel, confirming the satisfaction of the conditions in clauses (a) (with respect to the validity and perfection of the security interest), (b), (c) and (e).

If the amount deposited with the Trustee to effect a Defeasance is insufficient to pay the principal of, premium, if any, and interest on the Notes when due, or if any court enters an order directing the repayment of the deposit to us or otherwise making the deposit unavailable to make payments under the Notes when due, then (so long as the insufficiency exists or the order remains in effect) the Issuer and the Guarantors obligations under the Indenture and the Notes will be revived, and the Defeasance will be deemed not to have occurred.

Legal Defeasance and Covenant Defeasance shall be deemed to occur on the day on which all of the applicable conditions set forth above are satisfied (which shall not be earlier than the 91st day after the date of the deposit described in clause (a) in the case of Legal Defeasance).

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### **Satisfaction and Discharge**

The Indenture will be discharged and will cease to be of further effect (except as to surviving rights of registration of transfer or exchange of Notes) as to all outstanding Notes when either:

- (a) All outstanding Notes, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has been deposited in trust and thereafter repaid to the Issuer, have been delivered to the Trustee for cancellation; or
- (b) (1) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium and Liquidated Damages, if any, and accrued interest to the date of maturity or redemption;
- (2) the Issuer shall have delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or the redemption date, as the case may be;
- (3) such deposit does and will not result in a breach or violation of, or constitute a Default under the Indenture or a default under any other material agreement or instrument to which the Issuer or any of the Issuer's Subsidiaries are a party or are otherwise bound;
- (4) the Issuer shall have paid all other amounts payable by the Issuer under the Indenture;
- (5) the Issuer shall have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Issuer with intent to hinder, delay, or defraud any other of the Issuer's creditors; and
- (6) the Issuer shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, which opinion can be subject to customary qualifications, confirming the satisfaction of the conditions in clause (3) above.

Upon satisfaction of the conditions set forth above and upon request of the Issuer, the Trustee shall acknowledge in writing the discharge of the Indenture and the Notes.

### **Amendment, Supplement and Waiver**

Except as provided below under this section, the Issuer, the Guarantors and the Trustee may amend or supplement the Indenture, the Notes and the Guarantees, with the consent of the Holders of a majority in aggregate principal amount of the Notes (including, without limitation, the Additional Notes, if any, voting as a single class) then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Notes), and any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a Payment Default resulting from an acceleration that has been rescinded) or compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Notes).

The Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive compliance in a particular instance by the Issuer or any Subsidiary with any provision of the Indenture, the Notes or the Guarantees.

The Indenture provides that without the consent of each Holder affected (it being understood that, except as expressly stated otherwise in paragraphs (a) through (e) below, the covenant described under Repurchase at the

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Option of Holders Asset Sales and the covenant described under Repurchase at the Option of Holders Change of Control may be amended, waived or modified in accordance with the first paragraph under the heading Amendment, Supplement and Waiver ) an amendment or waiver may not (with respect to any Notes held by a non-consenting Holder):

(a) change the Stated Maturity on any Note, or reduce the principal amount thereof or the rate (or extend the time for payment) of interest thereon or any premium payable upon the redemption thereof at the Issuer's option, or change the coin or currency in which, any Note or any premium or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption at the Issuer's option, on or after the redemption date), or after an Asset Sale or Change of Control has occurred reduce the Change of Control Purchase Price or the Asset Sale Offer Price with respect to the corresponding Asset Sale or Change of Control or alter the provisions (including the defined terms used therein) regarding the Issuer's right to redeem the Notes at the Issuer's option in a manner adverse to the Holders;

(b) reduce the percentage in principal amount of the outstanding Notes, the consent of whose Holders is required for any such amendment, supplemental indenture or waiver provided for in the Indenture; or

(c) modify any of the waiver provisions, except to increase any required percentage or to provide that certain other provisions of the Indenture cannot be modified or waived without the consent of the Holder of each outstanding Note affected thereby.

(d) make any changes in the foregoing clauses (a) through (c) or this clause (d), in a manner adverse to the Holders of the Notes.

Notwithstanding the foregoing, the Issuer, the Guarantors and the Trustee may amend or supplement the Indenture, the Notes or any Guarantee, without the consent of any Holder of a Note:

(a) to cure any ambiguity, defect or inconsistency;

(b) to provide for uncertificated Notes in addition to or in place of definitive Notes or to alter the provisions concerning authentication and delivery of Notes, issuing temporary Notes, registration of Notes and transfers and exchange of Notes, mutilated, destroyed, lost or stolen Notes, the maintenance of an office or agency for registration and for payment and money held in trust, payment of defaulted interest and certain similar matters in a manner that does not materially adversely affect any Holder;

(c) to provide for the assumption of the Issuer's obligations to the Holders of the Notes by a successor to the Issuer pursuant to the caption Merger, Consolidation or Sale of Assets;

(d) to provide for additional Guarantors as set forth in the covenant described under Certain Covenants Subsidiary Guarantors or for the release or assumption of a Guarantee in compliance with the Indenture;

(e) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the rights hereunder of any Holder of the Notes;

(f) to comply with the provisions of DTC, Euroclear or Clearstream or the Trustee with respect to the provisions of the Indenture or the Notes relating to transfers and exchanges of Notes or beneficial interests therein;

(g) to comply with requirements of the Commission in order to effect or maintain the qualification of the Indenture under the TIA;

(h) to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture as of the date of the Indenture; and

(i) to provide for the issuance of PIK Notes in accordance with the limitations set forth in the Indenture as of the date of the Indenture.

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Upon the request of the Issuer accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental Indenture, and upon receipt by the Trustee of the documents required by the Indenture, the Trustee shall join with the Issuer in the execution of any amended or supplemental Indenture authorized or permitted by the terms of the Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental Indenture that adversely affects its own rights, duties or immunities under the Indenture or otherwise.

Notwithstanding the foregoing, no amendment to the subordination provisions of the Indenture may adversely affect the rights of any holders of Designated Senior Indebtedness then outstanding without the consent of the holders of such Designated Senior Indebtedness (or any group or representative thereof authorized to give such consent).

It shall not be necessary for the consent of the Holders of Notes to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

## **Concerning the Trustee**

The Indenture contains certain limitations on the rights of the Trustee thereunder, should it become a creditor of the Issuer, to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The Trustee is permitted to engage in other transactions; however, if it acquires any conflicting interest, as defined in the TIA, it must eliminate such conflict within 90 days, apply to the Commission for permission to continue or resign.

The Indenture provides that if an Event of Default of which the Trustee has knowledge has occurred and is continuing, the Trustee shall exercise its rights and powers under the Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

## **Governing Law**

The Indenture, the Notes and the Guarantees are governed by and construed in accordance with the laws of the State of New York.

## **Certain Definitions**

Set forth below are certain defined terms used in the Indenture.

*Acquired Indebtedness* means Indebtedness (including Disqualified Capital Stock) of any Person existing at the time such Person becomes a Subsidiary of the Issuer, including by designation, or is merged or consolidated into or with the Issuer or one of its Subsidiaries.

*Additional Notes* means additional Notes which may be issued after the Issue Date pursuant to the Indenture (other than the Exchange Notes and any PIK Notes issued (and any increase in the aggregate principal amount of Notes) as a result of the payment of PIK Interest). All references herein to Notes shall be deemed to include Additional Notes except as stated otherwise.

*Affiliate* means any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer. For purposes of this definition, the term control means the power to direct the management and policies of a Person, directly or through one or more intermediaries, whether through the ownership of voting securities, by contract, or otherwise; shall for such purposes be deemed to possess control. Notwithstanding the foregoing, the term Affiliate shall not include Subsidiaries.

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*Applicable Premium* means, with respect to the Notes at any Redemption Date the excess of (1) the present value at such time of (a) the redemption price of such Notes at February 15, 2011 plus (b) all accrued and unpaid interest required to be paid on such Notes from the Redemption Date through February 15, 2011, computed using a discount rate equal to the Treasury Rate as of such Redemption Date plus 0.50% per annum, over (2) the principal amount of such Notes; *provided, however*, that such value shall not be less than zero.

*Average Life* means, as of the date of determination, with respect to any security or instrument, the quotient obtained by dividing (1) the sum of the products of (a) the number of years from the date of determination to the date or dates of each successive scheduled principal (or redemption) payment of such security or instrument and (b) the amount of each such respective principal (or redemption) payment by (2) the sum of all such principal (or redemption) payments.

*Beneficial Owner* or *beneficial owner* for purposes of the definition of Change of Control and Affiliate has the meaning attributed to it in Rules 13d-3 and 13d-5 under the Exchange Act (as in effect on the Issue Date), whether or not applicable.

*Board of Directors* means the board of directors of the Issuer or any committee of the board of directors authorized, with respect to any particular matter, to exercise the power of the board of directors of the Issuer.

*Business Day* means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York, New York are authorized or obligated by law or executive order to close.

*Capital Contribution* means any contribution to the equity of the Issuer from a direct or indirect parent of the Issuer for which no consideration (other than the issuance of Equity Interests (other than Disqualified Capital Stock)) is given.

*Capitalized Lease Obligations* means, as applied to any Person, at the time any determination is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on the balance sheet (excluding the footnotes thereto) of such Person in accordance with GAAP, and the stated maturity thereof shall be the date of the last payment of rent or any other amount due under such Capitalized Lease prior to the first date upon which such Capitalized Lease may be prepaid by the lessee without payment of a penalty.

*Capitalized Leases* means, as applied to any Person, all leases of property (whether real, personal or mixed) by such Person as a lessee that, in conformity with GAAP, is or is required to be accounted for as a capital lease on the balance sheet of such Person.

*Capital Stock* means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

*Cash Equivalent* means:

- (1) securities issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof);

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(2) demand deposits, time deposits and certificates of deposit and commercial paper issued by the parent corporation of any domestic or foreign commercial bank of recognized standing having capital and surplus in excess of \$250,000,000 in the case of U.S. banks and \$100,000,000 (or the U.S. dollar equivalent as of the date of determination) in the case of non-U.S. banks;

(3) commercial paper issued by others rated at least A-2 or the equivalent thereof by S&P or at least P-2 or the equivalent thereof by Moody's;

(4) repurchase obligations having terms not more than seven days, with institutions meeting the criteria set forth in clause (2) above, for underlying securities of the types described in clauses (2) and (3) above;

(5) interests in money market or mutual funds all of whose assets are invested in assets or securities of the type described in clauses (1) through (4) above;

(6) with respect to Investments by any Foreign Subsidiary, any demand deposit account;

(7) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof having an Investment Grade Rating from either Moody's or S&P with maturities of 24 months or less from the date of acquisition;

(8) Indebtedness or Preferred Stock issued by Persons with a rating of A or higher from S&P or A2 or higher from Moody's with maturities of 24 months or less from the date of acquisition; or

(9) investments in mutual funds, 95% of more of the assets of which are invested in obligations of the types described in clauses (1) (8) above, and in the case of each of (1), (2), and (3) maturing within two years after the date of acquisition.

*Change of Control* means:

(A) prior to the consummation of the first Public Equity Offering after the Issue Date, (1) the Permitted Holders shall cease to beneficially own, in the aggregate, directly or indirectly, 35% of the voting power of the Voting Equity Interests of the Issuer (and its direct or indirect Parent Entities) (provided, that for purposes of determining the beneficial ownership of the Permitted Holders, Voting Equity Interests beneficially owned by the management of the Issuer (or its direct or indirect Parent Entities) shall be deemed not to exceed 10% of the outstanding Voting Equity of the Issuer (or its direct or indirect Parent Entities), (2) any person (including any group that is deemed to be a person) (other than the Permitted Holders) is or becomes the beneficial owner of more or the voting or economic interests of the Issuer and its direct and indirect Parent Entities than is beneficially owned by the Investors,

(B) any merger or consolidation of the Issuer (or its direct or indirect Parent Entities) with or into any Person or any sale, transfer or other conveyance, whether direct or indirect, of all or substantially all of the Issuer's assets, on a consolidated basis, in one transaction or a series of related transactions, if, immediately after giving effect to such transaction(s), any person (including any group that is deemed to be a person) (other than the Permitted Holders) is or becomes the beneficial owner of more than 40% of the aggregate voting power of the Voting Equity Interests of the transferee(s) or surviving entity or entities, unless the Investors, in the aggregate, beneficially own, directly or indirectly, a greater percentage of the voting power than such person,

(C) any person (including any group that is deemed to be a person) (other than the Permitted Holders) is or becomes the beneficial owner of more than 40% of the aggregate voting power of the Voting Equity Interests of the Issuer (or its direct or indirect Parent Entities), unless the Investors, in the aggregate, beneficially own, directly or indirectly, a greater percentage of the voting power than such person,

(D) the Continuing Directors cease for any reason to constitute a majority of the Issuer's Board of Directors then in office (except by reason of temporary vacancies created by the death, incapacity or the unscheduled resignation of a director, prior to the replacement of such director), or



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(E) the Issuer adopts a plan of liquidation.

As used in this definition, *person* (including any group that is deemed to be a *person*) has the meaning given by Sections 13(d) of the Exchange Act, whether or not applicable.

*Clearstream* means Clearstream Banking Luxembourg, or its successors.

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

*Commission* means the Securities and Exchange Commission.

*Consolidated Coverage Ratio* of any Person on any date of determination (the *Transaction Date*) means the ratio, on a *pro forma* basis, of (a) the aggregate amount of Consolidated EBITDA of such Person attributable to continuing operations and businesses (exclusive of amounts attributable to operations and businesses permanently discontinued or disposed of) for the Reference Period to (b) the aggregate Consolidated Fixed Charges of such Person (exclusive of amounts attributable to operations and businesses permanently discontinued or disposed of, but only to the extent that the obligations giving rise to such Consolidated Fixed Charges would no longer be obligations contributing to such Person's Consolidated Fixed Charges subsequent to the *Transaction Date*) during the Reference Period; *provided* that for purposes of such calculation:

(1) any conversion of an Unrestricted Subsidiary into a Subsidiary and any acquisition, in each case which occurred during the Reference Period or subsequent to the Reference Period and on or prior to the *Transaction Date* shall be assumed to have occurred on the first day of the Reference Period;

(2) the incurrence of any Indebtedness or the issuance of any Disqualified Capital Stock during the Reference Period or subsequent to the Reference Period and on or prior to the *Transaction Date* (and the application of the proceeds therefrom), other than Indebtedness incurred under any revolving credit facility, shall be assumed to have occurred on the first day of the Reference Period;

(3) if since the beginning of such period the Issuer or any Subsidiary has repaid, repurchased, redeemed, defeased or otherwise acquired, retired or discharged any Indebtedness (each a *Discharge*) or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio involves a *Discharge* of Indebtedness (in each case other than Indebtedness incurred under any revolving credit facility unless such Indebtedness has been permanently repaid), Consolidated EBITDA and Consolidated Fixed Charges for such period shall be calculated after giving effect on a *pro forma* basis to such *Discharge* of such Indebtedness, including with the net proceeds of such new Indebtedness, as if such *Discharge* had occurred on the first day of such period;

(4) in the case of an incurrence, at any time during or after the Reference Period, of Indebtedness (including any Disqualified Capital Stock) with a floating interest or dividend rate, such floating interest or dividend rate shall be computed on a *pro forma* basis as if the rate applicable at the *Transaction Date* had been in effect from the beginning of the Reference Period to the *Transaction Date*, unless such Person or any of its Subsidiaries is a party to a Hedging Obligation that has the effect of fixing in whole or in part the interest rate or dividend rate on the date of computation, in which case such rate shall be used, without duplication, to the extent applicable to such Indebtedness; and

(5) transactions giving rise to the need to calculate the Consolidated Coverage Ratio shall be assumed to have occurred on the first day of the Reference Period.

For purposes of this definition, whenever *pro forma* effect is to be given to a transaction, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Issuer. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of the Issuer, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event and expected to be realized within the eighteen months following such event.

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*Consolidated EBITDA* means, for any four quarter period, the Consolidated Net Income for such period, plus:

(a) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(1) total interest expense and, to the extent not reflected in such total interest expense, any losses on Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such Hedging Obligations or such derivative instruments, and bank and letter of credit fees and costs of surety bonds in connection with financing activities;

(2) Cash Taxes;

(3) depreciation and amortization (including amortization of intangible assets established through purchase accounting and amortization of deferred financing fees or costs);

(4) Non-Cash Charges;

(5) the amount of any minority interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non-wholly owned Subsidiary deducted (and not added back in such period to Consolidated Net Income);

(6) (A) the amount of management, monitoring, consulting and advisory fees, indemnities and related expenses paid or accrued in such period to (or on behalf of) Apollo Management L.P. or its Affiliates prior to the Issue Date, and (B) the amount of expenses relating to payments made to option holders of the Issuer or any of its direct or indirect parent companies in connection with, or as a result of, any distribution being made to shareholders of such Person or its direct or indirect parent companies, which payments are being made to compensate such option holders as though they were shareholders at the time of, and entitled to share in, such distribution, in each case to the extent permitted in the Indenture;

(7) any non-cash loss attributable to the mark to market movement in the valuation of Hedging Obligations (including Hedging Obligations entered into for the purpose of hedging against fluctuations in the price or availability of any commodity) (to the extent the cash impact resulting from such loss has not been realized) or other derivative instruments pursuant to Financial Accounting Standards Board Statement No. 133- Accounting for Derivative Instruments and Hedging Activities;

(8) any loss relating to amounts paid in cash prior to the stated settlement date of any Hedging Obligation (including Hedging Obligations entered into for the purpose of hedging against fluctuations in the price or availability of any commodity) that has been reflected in Consolidated Net Income for such period;

(9) any gain relating to Hedging Obligations (including Hedging Obligations entered into for the purpose of hedging against fluctuations in the price or availability of any commodity) associated with transactions realized in the current period that has been reflected in Consolidated Net Income in prior periods and excluded from Consolidated EBITDA pursuant to clauses (b)(3) and (b)(4) below;

(10) in the case of any period that includes a period ending prior to or during the fiscal quarter ending December 31, 2008, Transaction Expenses;

(11) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, investment, asset disposition, issuance or repayment of debt, issuance of equity securities, refinancing transaction or amendment or other modification of any debt instrument (in each case, including any such transaction consummated prior to the Issue Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction;

(12) any income (loss) for such period attributable to the early extinguishment of Indebtedness, Hedging Agreements or other derivative instruments (other than commodity Hedging Agreements);

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(13) accruals and reserves that are established or adjusted as a result of the Merger and Related Financing Transactions in accordance with GAAP or changes as a result of the adoption or modification of accounting policies during such period;

(14) any loss from investments recorded using the equity method;

(15) losses on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business);

(16) the amount of any net losses from discontinued operations in accordance with GAAP;

(17) non-recurring charges (including any unusual or non-recurring) operating expenses directly attributable to the implementation of cost savings initiatives), severance, relocation costs, integration and facilities opening costs, signing costs, retention or completion bonuses, transition costs and costs related to closure/consolidation of facilities, in each case, as determined by a responsible financial or accounting officer of the Issuer and approved by the Board of Directors of the ultimate Parent Entity of the Issuer and provided to the Trustee with a certificate of an Officer containing (a) the board resolution, and (b) reasonable detail regarding such charges, within 10 Business Days of the use of the adjustment described in this clause (17) for purposes of the calculation of the Debt Incurrence Ratio for any purposes under the Indenture; and

(18) restructuring charges, accruals or reserves (including restructuring costs related to acquisitions after the Issue Date), in each case in accordance with GAAP; *provided* that such restructuring charges, accruals and reserves shall not exceed an aggregate amount of \$5,000,000 for such period;

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(b) without duplication and to the extent included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(1) extraordinary gains and unusual or non-recurring gains;

(2) non-cash gains (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated Net Income or Consolidated EBITDA in any prior period);

(3) any non-cash gain attributable to the mark to market movement in the valuation of Hedging Obligations (including Hedging Obligations entered into for the purpose of hedging against fluctuations in the price or availability of any commodity) (to the extent the cash impact resulting from such gain has not been realized) or other derivative instruments pursuant to Financial Accounting Standards Board Statement No. 133- Accounting for Derivative Instruments and Hedging Activities;

(4) any gain relating to amounts received in cash prior to the stated settlement date of any Hedging Obligation (including Hedging Obligations entered into for the purpose of hedging against fluctuations in the price or availability of any commodity) that has been reflected in Consolidated Net Income in such period;

(5) any loss relating to Hedging Obligations (including Hedging Obligations entered into for the purpose of hedging against fluctuations in the price or availability of any commodity) associated with transactions realized in the current period that has been reflected in Consolidated Net Income in prior periods and excluded from Consolidated EBITDA pursuant to clauses (a)(7) and (a)(8) above;

(6) any income from investments recorded using the equity method;

(7) gains on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business);

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(8) the amount of any minority interest income consisting of Subsidiary loss attributable to minority equity interests of third parties in any non-wholly owned Subsidiary added (and not deducted in such period in calculating Consolidated Net Income); and

(9) Cash Taxes;

in each case, as determined on a consolidated basis for the Issuer and its Subsidiaries in accordance with GAAP; *provided* that, to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA currency translation gains and losses related to currency remeasurements of Indebtedness (including the net loss or gain resulting from Hedging Agreements for currency exchange risk). Notwithstanding anything to the contrary contained in the Indenture, and subject to *pro forma* adjustment with respect to acquisitions and dispositions occurring following the Issue Date and adjustments provided under clause (a)(11) above, Consolidated EBITDA shall be deemed to be \$32,200,000, \$87,500,000 and \$95,000,000, respectively, for the fiscal quarters ended March 31, 2007, June 30, 2007 and September 30, 2007.

*Consolidated Fixed Charges* of any Person means, for any period, the aggregate amount (without duplication and determined in each case in accordance with GAAP) of:

(1) interest expensed or capitalized, paid on, accrued (including, in accordance with the following sentence, interest attributable to Capitalized Lease Obligations) of such Person and its Consolidated Subsidiaries during such period, including (a) amortization of original issue discount results from the issuance of Indebtedness at less than par and non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations pursuant to Financial Accounting Standards Board Statement No. 133 Accounting for Derivative Instruments and Hedging Activities and amortization of costs for the issuance of Indebtedness) or accruals on any Indebtedness, (b) the interest portion of all deferred payment obligations, and (c) all commissions, discounts and other fees and charges owed with respect to bankers acceptances and letters of credit financings and Hedging Obligations (excluding, for the avoidance of doubt, amounts due upon settlement of any such Hedging Obligation), in each case to the extent attributable to such period, and excluding (i) the accretion or any expense resulting from the discounting of any Indebtedness in connection with the application of purchase accounting in connection with the Merger or the Related Financing Transactions or any acquisition, (ii) penalties and interest relating to taxes, (iii) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses and (iv) any expensing of bridge, commitment and other financing fees;

(2) the product of (a) the amount of dividends accrued or payable (or guaranteed) by such Person or any of its Consolidated Subsidiaries in respect of Preferred Stock (other than by Subsidiaries of such Person to such Person or such Person's Wholly Owned Subsidiaries and than those paid solely in Equity Interests other than Disqualified Capital Stock) times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, determined on a consolidated basis in accordance with GAAP; and

(3) the product of (a) the amount of dividends accrued or payable in respect of any Disqualified Capital Stock of such Person and its Subsidiaries (other than those paid solely in Equity Interests other than Disqualified Capital Stock) times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, determined on a consolidated basis in accordance with GAAP.

For purposes of this definition, (x) interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined in good faith by the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP and (y) without duplication, interest expense attributable to any Indebtedness represented by the guaranty by such Person or a Subsidiary of such Person of an obligation of another Person shall be deemed to be the interest expense attributable to the Indebtedness guaranteed.

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*Consolidated Net Income* means, with respect to any Person for any period, the net income (or loss) of such Person and its Consolidated Subsidiaries (before preferred stock dividends and otherwise determined on a consolidated basis in accordance with GAAP) for such period, minus an amount equal to any payments made to a Parent Entity pursuant to clause (h) of the covenant described under *Certain Covenants Limitations on Restricted Payments* during such period, to the extent the expenses of such Parent Entity paid with the proceeds of such dividend would not otherwise reduce Consolidated Net Income, and adjusted to exclude (only to the extent included in computing such net income (or loss and without duplication) the amount (in the case of clauses (j) and (k)) or the After Tax Amount (in the case of clauses (a) through (i)) of:

- (a) any gain, loss, charge or expense which is extraordinary (as determined in accordance with GAAP);
- (b) the net income, if positive, of any Person, other than a Consolidated Subsidiary, in which such Person or any of its Consolidated Subsidiaries has an interest, except to the extent of the amount of any dividends or distributions actually paid in cash to such Person or a Consolidated Subsidiary of such Person during such period, but in any case not in excess of such Person's pro rata share of such Person's net income for such period;
- (c) the net income, if positive, of any of such Person's Consolidated Subsidiaries to the extent that the declaration or payment of dividends or similar distributions is not at the time permitted by operation of the terms of its charter or bylaws or any other agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Consolidated Subsidiary;
- (d) the cumulative effect of a change in accounting principles;
- (e) any non-cash compensation expense realized from grants of stock appreciation or similar rights, stock options or other rights to officers, directors and employees of the Issuer or any Guarantor;
- (f) amounts resulting from currency fluctuations;
- (g) any goodwill impairment charges pursuant to Financial Accounting Standards Board Statement No. 142;
- (h) any gains from key man life insurance to the extent used to make Restricted Payments pursuant to clause (a)(ii)(B) of the second paragraph under the covenant described under *Certain Covenants Limitations on Restricted Payments*;
- (i) Transaction Expenses incurred prior to March 31, 2008;
- (j) the amortization or write-off of any amounts as a result of applying purchase accounting, including applying purchase accounting to inventory, property and equipment, software and other intangible assets and deferred revenue, required or permitted by GAAP and related authoritative pronouncements (including the effects of such adjustments pushed down to the Issuer and the Subsidiaries), as a result of the Merger and Related Financing Transactions, any acquisition consummated prior to the Issue Date and any permitted acquisitions occurring after the Issue Date or the amortization or write-off of any amounts thereof; and
- (k) to the extent deducted in arriving at net income, the provision for taxes based on income, profits or capital, including federal, foreign, state, franchise, excise, and similar taxes paid or accrued during such period.

Consolidated Net Income shall be (x) reduced by the amount paid in cash or, without duplication, payable in cash (excluding deferred taxes and reserves for taxes) or (y) increased by the amount of refunds received in cash or, without duplication, receivable in cash (excluding deferred taxes and reserves for taxes), in either case, during such period for taxes based on income, profits or capital, including federal, foreign, state, franchise, excise, and similar taxes (*Cash Taxes*). In addition, Consolidated Net Income shall be reduced by an amount equal to \$3,750,000 for each completed fiscal quarter occurring during such period; *provided, however*, that this reduction shall not be made in connection with determining *Consolidated EBITDA* for any period.

For purposes of calculating *Consolidated Net Income*, the *After Tax Amount* means, with respect to any item which *Consolidated Net Income* is adjusted to exclude, the aggregate amount of such item so excluded,

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multiplied by 1 minus the actual marginal combined tax rate; *provided*, with respect to any item so excluded which does not change the taxable income of the Issuer and its Subsidiaries, such marginal combined tax rate shall be zero. Notwithstanding the foregoing, and without duplication, to the extent that the tax impact of such item so excluded occurs over future periods, the cash tax adjustment associated with such item will be made in the periods in which the tax impact actually occurs. For the avoidance of doubt, for any period, the sum of (x) the After Tax Amount of all items excluded from Consolidated Net Income under clauses (a) through (i) above for such period plus (y) Consolidated Net Income for such period prior to the addition or reduction of such After Tax Amount, shall not exceed Consolidated Net Income for such period calculated as if such items had not occurred.

*Consolidated Subsidiary* means, for any Person, each Subsidiary of such Person (whether now existing or hereafter created or acquired) the financial statements of which are Consolidated for financial statement reporting purposes with the financial statements of such Person in accordance with GAAP.

*Consolidation* means, with respect to the Issuer, the consolidation of the accounts of the Subsidiaries with those of the Issuer, all in accordance with GAAP; *provided* that Consolidation will not include the consolidation of the accounts of any Unrestricted Subsidiary with the accounts of the Issuer. The term consolidated has a correlative meaning to the foregoing.

*Continuing Director* means during any period of 12 consecutive months beginning after the Issue Date, individuals who at the beginning of any such 12-month period constituted the Board of Directors (together with any new directors whose election by such Board of Directors or whose nomination for election by the shareholders of the Issuer was approved by a vote of a majority of the directors then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved, including new directors designated in or provided for in an agreement regarding the merger, consolidation or sale, transfer or other conveyance, of all or substantially all of the assets of the Issuer or any Parent Entity, if such agreement was approved by a vote of such majority of directors).

*Credit Facilities* means the facilities or Indebtedness available under (1) the credit agreement, dated as of February 13, 2008, by and among the Issuer, Chill Intermediate Holdings, Inc., General Electric Capital Corporation, as administrative agent and collateral agent, Barclays Capital and Calyon New York Branch, as joint lead arrangers, and the other financial institutions party thereto, with respect to an aggregate \$800,000,000 term loan facility, (2) the credit agreement, dated as of February 13, 2008, by and among, the Issuer, Chill Intermediate Holdings, Inc., and General Electric Capital Corporation, as administrative agent and collateral agent, Barclays Capital and Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, and General Electric Capital Corporation, as letter of credit issuer, and the other financial institutions party thereto, with respect to an aggregate \$300,000,000 asset-based revolving credit facility and (3) any other agreements, instruments, indentures or other debt or financing arrangement, in each case, including any related notes, guarantees, collateral documents, instruments and agreements executed in connection therewith, as such credit agreement, indenture and/or related documents may be amended, restated, supplemented, renewed, replaced, refinanced (in whole or in part) or otherwise modified from time to time by one or more agreements, facilities, instruments, indentures, or any other debt or financing arrangement whether or not with the same agent, trustee, representative lenders or holders whether or not previously repaid in full or in part for any period of time, and, subject to the proviso to the next succeeding sentence, irrespective of any changes in the terms and conditions thereof. Without limiting the generality of the foregoing, the term Credit Facilities shall include agreements in respect of Hedging Obligations with Persons which, at the time such agreements were entered into, were lenders (or Affiliates thereof) party to the Credit Facilities and shall also include any amendment, amendment and restatement, renewal, extension, restructuring, supplement or modification to any Credit Facilities and all refundings, refinancings and replacements of any Credit Facilities, including any agreements, facilities, instruments, indentures, or any other debt or financing arrangement:

- (a) extending the maturity of any Indebtedness incurred thereunder or contemplated thereby;
- (b) adding or deleting borrowers or guarantors thereunder, so long as borrowers and issuers include one or more of the Issuer and its Subsidiaries and their respective successors and assigns; or

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(c) otherwise altering the terms and conditions thereof in a manner not prohibited by the terms of the Indenture.

*Default* means any event that is or with the passage of time or the giving of notice or both would be an Event of Default.

*Designated Senior Indebtedness* means (1) so long as any Indebtedness is outstanding or commitments to lend exist under the Credit Facilities, the Credit Facilities, upon receipt of the consent of the requisite lenders under the Credit Facilities or (2) at any time at which no Indebtedness is outstanding (and no commitments to lend exist) under the Credit Facilities, any series of Senior Indebtedness with at least \$50,000,000 principal amount outstanding as may be designated in writing by the Issuer, with a copy of such designation delivered to the Trustee.

*Disqualified Capital Stock* means with respect to any Person, (1) Equity Interests of such Person that, by its terms or by the terms of any security into which it is convertible, exercisable or exchangeable, is, or upon the happening of an event or the passage of time or both would be, required to be redeemed or repurchased including at the option of the holder thereof by such Person or any of its Subsidiaries, in whole or in part, on or prior to 91 days following the Stated Maturity of the Notes or the date the Notes are no longer outstanding, (2) any preferred stock of the Issuer that is issued for cash and is so designated as Disqualified Capital Stock, pursuant to an Officers Certificate on the issuance date thereof, and (3) any Equity Interests of any Subsidiary of such Person other than any common equity with no preferences, privileges, and no redemption or repayment provisions. Notwithstanding the foregoing, any Equity Interests that would constitute Disqualified Capital Stock solely because the holders thereof have the right to require the Issuer to repurchase such Equity Interests upon the occurrence of a change of control or an asset sale shall not constitute Disqualified Capital Stock if the terms of such Equity Interests provide that the Issuer may not repurchase or redeem any such Equity Interests pursuant to such provisions prior to the Issuer's purchase of the Notes as are required to be purchased pursuant to the provisions of the covenant described under Repurchase at the Option of Holders Asset Sales and the covenant described under Repurchase at the Option of Holders Change of Control.

*Equity Interests* means Capital Stock or partnership, participation or membership interests and all warrants, options or other rights to acquire Capital Stock or partnership, participation or membership interests (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock or partnership, participation or membership interests).

*Euroclear* means Euroclear Bank S.A./N.V., or its successor, as operator of the Euroclear system.

*Event of Loss* means, with respect to any property or asset, any (1) loss, destruction or damage of such property or asset or (2) any condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, of such property or asset, or confiscation or requisition of the use of such property or asset.

*Exchange Act* means the Securities Exchange Act of 1934, as amended and the rules and regulations of the Commission thereunder.

*Excluded Contribution* means net cash proceeds, marketable securities or other proceeds received by the Issuer from (1) contributions to its common equity capital, and (2) the sale (other than to a Subsidiary of the Issuer or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Issuer) of Equity Interests (other than Disqualified Capital Stock) of the Issuer, in each case designated as Excluded Contributions pursuant to an officer's certificate executed by the principal financial officer of the Issuer on the date such capital contributions are made or the date such Equity Interests are sold, as the case may be, which are excluded from the calculation set forth in clause (3) of the first paragraph of the covenant described under Certain Covenants Limitations on Restricted Payments .

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*Exempted Affiliate Transaction* means (1) customary employee compensation arrangements approved by a majority of independent (as to such transactions) members of the Board of Directors and reasonable and customary directors fees, indemnification and similar arrangements provided for the benefit of current or former officers, directors, employees or consultants of the Issuer, any of its Subsidiaries, and payments pursuant thereto, (2) transactions solely between or among the Issuer and any of its Subsidiaries or solely among Subsidiaries of the Issuer, (3) payment of any Restricted Payment or any Investment in an Unrestricted Subsidiary, in each case, not prohibited by the Indenture, (4) payments or loans to employees or consultants of the Issuer, any of its Subsidiaries, and employment agreements, stock option plans and other similar arrangements with such employees or consultants which are approved by a majority of the Board of Directors of the Issuer in good faith, (5) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of the Indenture, (6) transactions with a Person (other than an Unrestricted Subsidiary of the Issuer) that is an Affiliate of the Issuer solely because the Issuer owns, directly or through a Subsidiary, an Equity Interest in, or controls, such Person, (7) any issuance of Equity Interests (other than Disqualified Capital Stock) of the Issuer to Affiliates or to any director, officer, employee or consultant of the Issuer, any of its Parent Entities or any of its Subsidiaries or any contribution to the capital of the Issuer, any of its Parent Entities or any of its Subsidiaries by Affiliates of the Issuer, (8) the provision of administrative services and therefore, of supplies and equipment, to any Unrestricted Subsidiary on substantially the same terms provided to or by Subsidiaries, (9) payment of any Tax Payments that are not prohibited by the Indenture, (10) the existence of, or the performance by the Issuer or any of its Subsidiaries of its obligations under the terms of, any stockholders agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Issue Date and any similar agreements which it may enter into thereafter; *provided, however*, that the existence of, or the performance by the Issuer or any of its Subsidiaries of obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Issue Date shall only be considered an Exempt Affiliate Transaction to the extent that the terms of any such amendment or new agreement are not otherwise materially disadvantageous to the Holders when taken as a whole, (11) the Merger and Related Financing Transactions and the payment of all fees and expenses related to the Merger and Related Financing Transactions, and (12) payment of out-of-pocket expenses of the Hellman & Friedman LLC and its Affiliates incurred by them in connection with advisory services provided to the Issuer or any of its Parent Entities; *provided* that the amount of such payments pursuant to this clause (12) shall not exceed up to \$1,500,000 in any calendar year.

*Existing Indebtedness* means the Indebtedness of the Issuer and its Subsidiaries (other than Indebtedness under the Credit Facilities) in existence on the Issue Date (after giving effect to the Merger and Related Financing Transactions), reduced to the extent such amounts are repaid, refinanced or retired.

*Existing Notes* means the 7.78% Senior Subordinated Notes of Goodman Global Holdings, Inc. and the Senior Floating Rate Notes of Goodman Global Holdings, Inc. outstanding immediately prior to the Merger.

*Fair Market Value* means the price that would be paid in an arms-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined in good faith by the Issuer.

*Foreign Subsidiary* means any Subsidiary of the Issuer which is not organized under the laws of the United States, any state thereof or the District of Columbia.

*GAAP* means United States generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as approved by a significant segment of the accounting profession in the United States as in effect on the Issue Date.

*Government Securities* means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.



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*Guarantee* means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including, without limitation, letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness. When used with respect to the Notes, a *Guarantee* means a guarantee by the Guarantors of all or any part of the Notes, in accordance with the Indenture.

*Guarantor* means each of the Issuer's present and future Subsidiaries that at the time are guarantors of the Notes in accordance with the Indenture.

*Hedging Agreement* shall mean (1) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (2) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a *Master Agreement* ), including any such obligations or liabilities under any Master Agreement.

*Hedging Obligations* shall mean, with respect to any Person, the obligations of such Person under Hedging Agreements, that are not entered into for speculative purposes.

*Holder* means a Person in whose name a Note is registered on the registrar's books.

*Indebtedness* of any Person means, without duplication:

(1) all liabilities and obligations, contingent or otherwise, of such Person, to the extent such liabilities and obligations would appear as a liability upon the consolidated balance sheet of such Person in accordance with GAAP, (a) in respect of borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof), (b) evidenced by bonds, Notes, debentures or similar instruments, (c) representing the balance deferred and unpaid of the purchase price of any property or services, in each case, except (i) those incurred in the ordinary course of its business that would constitute a trade payable to trade creditors and (ii) any earn-out obligations until such obligations become a liability on the balance sheet of such Person in accordance with GAAP;

(2) all liabilities and obligations, contingent or otherwise, of such Person (a) evidenced by bankers' acceptances or similar instruments issued or accepted by banks, (b) relating to any Capitalized Lease Obligation, or (c) evidenced by a letter of credit or a reimbursement obligation of such Person with respect to any letter of credit;

(3) all net obligations of such Person under Hedging Obligations;

(4) all liabilities and obligations of others of the kind described in the preceding clause (1), (2) or (3) that such Person has guaranteed or that is otherwise its legal liability or which are secured by any assets or property of such Person;

(5) any and all deferrals, renewals, extensions, refinancing and refundings (whether direct or indirect) of, or amendments, modifications or supplements to, any liability of the kind described in any of the preceding clauses (1), (2), (3) or (4), or this clause (5), whether or not between or among the same parties; and

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(6) all Disqualified Capital Stock of such Person (measured at the greater of its voluntary or involuntary maximum fixed repurchase price plus accrued and unpaid dividends).

For purposes hereof, the maximum fixed repurchase price of any Disqualified Capital Stock which does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Capital Stock as if such Disqualified Capital Stock were purchased on any date on which Indebtedness shall be required to be determined pursuant to the Indenture, and if such price is based upon, or measured by, the Fair Market Value of such Disqualified Capital Stock, such Fair Market Value to be determined in good faith by the board of directors of the issuer (or managing general partner of the issuer) of such Disqualified Capital Stock.

The amount of any Indebtedness outstanding as of any date shall be (A) the accreted value thereof, in the case of any Indebtedness issued with original issue discount and (B) the principal amount thereof in the case of any other Indebtedness.

*Indenture* means the Indenture, as amended or supplemented from time to time in accordance with its terms.

*Initial Purchasers* means the initial purchasers of the Notes under the Note Purchase Agreement, dated as of February 13, 2008, among the Issuer and such initial purchasers.

*Interest Payment Date* means the stated due date of an installment of interest on the Notes.

*Investment* by any Person in any other Person means (without duplication):

(1) the acquisition (whether by purchase, merger, consolidation or otherwise) by such Person (whether for cash, property, services, securities or otherwise) of Equity Interests, Capital Stock, bonds, notes, debentures, partnership or other ownership interests or other securities, including any options or warrants, of such other Person;

(2) the making by such Person of any deposit with, or advance, loan or other extension of credit to, such other Person (including the purchase of property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such property to such other Person), other than accounts receivable, trade credit, advances to customers, commissions travel and similar advances to officers and employees, endorsements for collection or deposits arising in the ordinary course of business;

(3) other than guarantees of Indebtedness of the Issuer or any Subsidiary to the extent permitted by the covenant described under Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock, the entering into by such Person of any guarantee of, or other credit support or contingent obligation with respect to, Indebtedness or other liability of such other Person;

(4) the making of any capital contribution by such Person to such other Person; and

(5) the designation by the Board of Directors of any Person to be an Unrestricted Subsidiary.

The Issuer shall be deemed to make an Investment in an amount equal to the Fair Market Value of the Issuer's or its Subsidiaries' equity or debt investment in such Person (or, if neither the Issuer nor any of its Subsidiaries has theretofore made an Investment in such subsidiary, in an amount equal to the Investments being made), at the time that such Subsidiary is designated an Unrestricted Subsidiary, and any property transferred to an Unrestricted Subsidiary from the Issuer or a Subsidiary of the Issuer shall be deemed an Investment valued at its Fair Market Value at the time of such transfer. The Issuer or any of its Subsidiaries shall be deemed to have made an Investment in a Person that is or was required to be a Guarantor if, upon the issuance, sale or other disposition of any portion of the Issuer's or the Subsidiary's ownership in the Capital Stock of such Person, such Person ceases to be a Guarantor. The Fair Market Value of each Investment shall be measured at the time made or returned, as applicable.

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*Investment Grade Rating* means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

*Investors* means Hellman & Friedman LLC, and its Affiliates that are collective investment vehicles for which Hellman & Friedman LLC or its direct or indirect subsidiaries act directly or indirectly as general partner, investment manager, managing member or in a similar capacity (any of the foregoing, a H&F Investment Vehicle); *provided* that with respect to any Investment Vehicle formed after the Issue Date, (a) such H&F Investment Vehicle shall not have been formed primarily to hold securities of the Issuer (or any of its direct or indirect Parent Entities), or (b) the limited partners or members of such H&F Investment Vehicle shall consist solely of (i) Persons that are limited partners or members of other H&F Investment Vehicles as of the Issue Date or (ii) Affiliates of Persons described in clause (i). Notwithstanding the foregoing, portfolio companies of any of the foregoing shall not constitute Investors.

*Issue Date* means the date of first issuance of the Notes under the Indenture (February 13, 2008).

*Junior Security* means any Equity Interests (other than Disqualified Capital Stock) and any Indebtedness of the Issuer or a Guarantor, as applicable, that is contractually subordinated in right of payment to all Senior Indebtedness (and any securities issued in exchange for or in replacement of Senior Indebtedness) at least to the same extent as the Notes or the Guarantee, as applicable, are subordinated to Senior Indebtedness pursuant to the Indenture and has no scheduled installment of principal due, by redemption, sinking fund payment or otherwise, on or prior to the Stated Maturity of the Notes; *provided* that in the case of subordination in respect of Senior Indebtedness under the Credit Facilities, Junior Security shall mean (except with the consent of the requisite lenders under the Credit Facilities) any Equity Interests (other than Disqualified Capital Stock) and any Indebtedness of the Issuer or the Guarantor, as applicable, that:

(1) has a final maturity date occurring after the final maturity date of all Senior Indebtedness outstanding under the Credit Facilities (and any securities issued in exchange or replacement of such Senior Indebtedness) on the date of issuance of such Equity Interests or Indebtedness;

(2) is unsecured;

(3) has an Average Life longer than the security for which such Equity Interests or Indebtedness are being exchanged; and

(4) by its terms or by law is subordinated to Senior Indebtedness outstanding under the Credit Facilities (and any securities issued in exchange for Senior Indebtedness) on the date of issuance of such Equity Interests or Indebtedness at least to the same extent as the Notes are subordinated to Senior Indebtedness pursuant to the Indenture (including, without limitation, with respect to payment blockage and turnover).

*Lien* means any mortgage, charge, pledge, lien (statutory or otherwise), privilege, security interest, hypothecation or other encumbrance upon or with respect to any property of any kind, real or personal, movable or immovable, now owned or hereafter acquired.

*Liquidated Damages* means all Liquidated Damages then owing pursuant to the Registration Rights Agreement.

*Moody's* means Moody's Investors Service, Inc. and its successors.

*Net Cash Proceeds* means the aggregate amount of cash or Cash Equivalents received by the Issuer in the case of a sale of Equity Interests (other than Disqualified Capital Stock) or a Capital Contribution and by the Issuer and its Subsidiaries in respect of an Asset Sale plus, in the case of an issuance of Equity Interests (other than Disqualified Capital Stock) upon any exercise, exchange or conversion of securities (including options, warrants, rights and convertible or exchangeable debt) of the Issuer that were issued for cash on or after the Issue Date, the amount of cash originally received by the Issuer upon the issuance of such securities (including options,

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warrants, rights and convertible or exchangeable debt) less, in each case, the direct costs relating to such Asset Sale or Issuance of Equity Interests (other than Disqualified Capital Stock), including, without limitation, legal, accounting, investment banking and other professional fees, and brokerage and sales commissions and any relocation expenses incurred as a result thereof incurred in connection with such Asset Sale or sale of Equity Interests (other than Disqualified Capital Stock), and, in the case of an Asset Sale only less (1) the amount (estimated reasonably and in good faith by the Issuer) of income, franchise, sales and other applicable taxes required to be paid by the Issuer or any of its respective Subsidiaries in connection with such Asset Sale in the taxable year that such sale is consummated or in the immediately succeeding taxable year, the computation of which shall take into account the reduction in tax liability resulting from any available operating losses and net operating loss carryovers, tax credits and tax credit carry-forwards, and similar tax attributes, (2) cash payments attributable to Persons owning an interest (other than a Lien) in the assets subject to the Asset Sale, (3) any deduction of appropriate amounts to be provided by the Issuer as a reserve in accordance with GAAP against any liability associated with the asset disposed of in such transaction and retained by the Issuer after such sale or other disposition thereof, including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction and (4) any holdbacks with respect to indemnification obligations or purchase price adjustments pending receipt thereof.

*Non-Cash Charges* shall mean (1) any impairment charge or asset write-off or write-down related to intangible assets (including goodwill), long lived assets, and investments in debt and equity securities pursuant to GAAP, (2) all losses from investments recorded using the equity method, (3) all non-cash compensation expenses, (4) the non-cash impact of purchase accounting, and (5) other non-cash charges (provided, in each case, that if any non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period).

*Notes* means the Exchange Notes, any Additional Notes and any PIK Notes issued in respect of any Notes. For purposes of the Indenture, all references to principal amount of the Notes shall include any PIK Notes issued in respect thereof (and any increase in the principal amount thereof) as a result of the payment of PIK Interest.

*Obligation* means any principal, premium or interest payment, or monetary penalty, or damages, due by the Issuer or any Guarantor under the terms of the Notes or the Indenture, including any Liquidated Damages due pursuant to the terms of the Registration Rights Agreement.

*Officer* means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Assistant Secretary, the Principal Accounting Officer, or any Vice President of such Person.

*Officers Certificate* means a certificate signed on behalf of the Issuer or any Guarantor by two Officers of the Issuer or such Guarantor, one of whom must be Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Assistant Secretary, the Principal Accounting Officer, or any Vice President of the Issuer or such Guarantor, that meets the requirements set forth in the Indenture.

*Opinion of Counsel* means an opinion from legal counsel that meets the requirements set forth in the Indenture, which opinion may be subject to customary assumptions, limitations and qualifications. The counsel may be an employee of or counsel to the Issuer or any Subsidiary of the Issuer.

*Parent Entity* means a Person that holds, directly or indirectly, Voting Equity Interests of the Issuer with voting power, in the aggregate, at least 50% of the total voting power of the Voting Equity Interests of the Issuer.

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*Permitted Holders* means (a) each of the Investors, (b) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) consisting solely of the Investors and members of management of the Issuer (or any of its direct or indirect Parent Entities), and (c) so long as no person (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision), other than a group described in clause (b), has beneficial ownership of a greater voting or economic interests represented by the Equity Interests of the Issuer and its direct or indirect Parent Entities, members of management of the Issuer (or any of its direct or indirect Parent Entities).

*Permitted Indebtedness* means:

- (1) Indebtedness incurred by the Issuer and the Guarantors, evidenced by the Notes and the Guarantees issued pursuant to the Indenture up to the amounts being issued on the original Issue Date (and any PIK Notes or PIK Interest and any Guarantee thereof) less any amounts repaid or retired;
- (2) Refinancing Indebtedness incurred by the Issuer and the Subsidiaries, as applicable (including Disqualified Capital Stock), with respect to Indebtedness described in clauses (1), (2) and (10) of this definition or incurred pursuant to the Debt Incurrence Ratio test set forth in the covenant described under *Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock*;
- (3) Indebtedness incurred by the Issuer and the Subsidiaries solely in respect of bankers acceptances, discounted bills of exchange, discounting or factoring of receivables, reimbursement obligations with respect to letters of credit, performance bonds, bid and surety bonds and completion guarantees and Indebtedness in respect of workers compensation claims in each, to the extent that such incurrence does not result in the incurrence of any obligation to repay any obligation relating to borrowed money incurred in the ordinary course of business;
- (4) Indebtedness incurred by the Issuer that is owed to (borrowed from) any Subsidiary, and Indebtedness incurred by a Subsidiary owed to (borrowed from) any other Subsidiary or the Issuer; *provided* that in the case of Indebtedness of the Issuer or a Subsidiary payable to any Subsidiary that is not a Guarantor, such obligations shall be unsecured and contractually subordinated to payments then due in respect of the Issuer's obligations pursuant to the Notes, and any event that causes any Subsidiary to which such Indebtedness is owed no longer to be a Subsidiary (including by designation to be an Unrestricted Subsidiary) shall be deemed to be a new incurrence by such issuer of such Indebtedness and any guarantor thereof subject to the covenant described under *Certain Covenants Limitations on Incurrence of Additional Indebtedness and Disqualified Capital Stock*;
- (5) guarantees by the Issuer or any Subsidiary of any Indebtedness or other obligations of the Issuer or any Subsidiary that was permitted to be incurred pursuant to the Indenture;
- (6) Hedging Obligations incurred by the Issuer and the Subsidiaries that are incurred for the purpose of fixing or hedging interest rate, currency or commodity risk with respect to any fixed or floating rate Indebtedness that is permitted by the Indenture to be outstanding or any receivable, liability or contractual provision the payment in respect of which is determined by reference to a foreign currency or commodity; *provided* that such obligations shall be Permitted Indebtedness under this clause (6) only to the extent that the notional amount of any such Hedging Obligation does not exceed the principal amount of any other Indebtedness to which such Hedging Obligation relates;
- (7) Indebtedness incurred by the Issuer and the Subsidiaries arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within ten Business Days;
- (8) Indebtedness incurred by the Issuer and the Subsidiaries arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred in connection with the acquisition or disposition of any business, assets or a Subsidiary or Unrestricted Subsidiary of the Issuer in accordance with the terms of the Indenture, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or Subsidiary or Unrestricted Subsidiary for the purpose of financing such acquisition;

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(9) Indebtedness incurred by the Issuer and the Subsidiaries supported by a letter of credit issued pursuant to the Credit Facilities, in a principal amount not in excess of the stated amount of such letter of credit; *provided* that such letter of credit was permitted to be issued under the covenant described under Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock;

(10) Indebtedness of Persons that are acquired by the Issuer or any Subsidiary or merged into a Subsidiary in accordance with the terms of the Indenture; *provided* that such Indebtedness is not incurred in contemplation of such acquisition or merger; *provided, further*, that after giving *pro forma* effect to such acquisition or merger either (a) the Issuer would be permitted to incur at least \$1.00 of Indebtedness pursuant to the Debt Incurrence Ratio set forth in the covenant described under Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock or (b) so long as the Debt Incurrence Ratio prior to such acquisition or merger is greater than 1.25 to 1.0, the Debt Incurrence Ratio is equal to or greater than immediately prior to such acquisition or merger;

(11) Indebtedness incurred by the Issuer and the Subsidiaries, the net proceeds of which are used to satisfy, defease or discharge the Notes as provided under Legal Defeasance and Covenant Defeasance or Satisfaction and Discharge;

(12) Indebtedness of the Issuer and the Subsidiaries consisting of take-or-pay obligations contained in supply arrangements, in each case, incurred in the ordinary course of business;

(13) Indebtedness issued by the Issuer and the Subsidiaries to current or former officers, directors and employees thereof, their respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of the Issuer or any direct or indirect Parent Entity of the Issuer to the extent described in clause (a) of the second paragraph of the covenant described under Certain Covenants Limitations on Restricted Payments; *provided*, that such Indebtedness (a) is unsecured, (b) is contractually subordinated in right of payment to the Notes and the Guarantees and (c) has a maturity after the Stated Maturity, and (d) provides for no cash interest payments or other payments if (i) any Default or Event of Default has occurred and is continuing, and/or (ii) the most recent payment of interest on the Notes was not made entirely in cash; and

(14) Indebtedness incurred by the Issuer and the Subsidiaries in connection with customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business.

*Permitted Investment* means:

(1) any Investment in any of the Notes;

(2) any Investment in cash or Cash Equivalents;

(3) any Investment by the Issuer or any Subsidiary: (a) in the Issuer (excluding payments to any securityholder of the Issuer by a Subsidiary of the Issuer), (b) in any Guarantor, or (c) in any Person if as a result of such Investment such Person becomes a Guarantor or such Person is merged with or into the Issuer or a Guarantor;

(4) other Investments in any Person or Persons, provided that after giving *pro forma* effect to each such Investment, the aggregate amount of all such Investments made on and after the Issue Date pursuant to this clause (4) that are outstanding (after giving effect to any such Investments that are returned to the Issuer or the Subsidiary that made such prior Investment, without restriction, in cash on or prior to the date of any such calculation, but only up to the amount of the Investment made under this clause (4) in such Person), at any time does not in the aggregate exceed \$17,500,000 (measured by the value attributed to the Investment at the time made, without giving effect to subsequent change in value);

(5) any Investment in any Person solely in exchange for Equity Interests (other than Disqualified Capital Stock) of the Issuer or a Parent Entity;

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- (6) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with the covenant described under Repurchase at the Option of Holders Asset Sales;
- (7) Investments represented by Hedging Obligations;
- (8) Investments in customers and suppliers that either (a) generate accounts or notes receivable, or (b) are accepted in settlement of bona fide disputes;
- (9) Investments in the form of loans or advances to employees for travel, relocation and like expenses, in each case, consistent with the Issuer's past practices;
- (10) Investments received in settlement of obligations or pursuant to any plan of reorganization or similar arrangement upon the bankruptcy, insolvency, reorganization, recapitalization or liquidation of any Person as a result of a foreclosure by the Issuer or any of its Subsidiaries with respect to any Investment or other transfer of title with respect to any Investment in default; or the good faith settlement of debts of, or litigation or disputes with, any Person that is not an Affiliate;
- (11) Investments of the Issuer and its Subsidiaries existing on the Issue Date;
- (12) Investments in Wholly Owned Subsidiaries that are Foreign Subsidiaries, provided that the aggregate amount of such Investments outstanding at any time shall not exceed \$25,000,000;
- (13) [Reserved]; and
- (14) Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment made in the ordinary course of business.

*Permitted Lien* means:

- (1) Liens existing on the Issue Date;
- (2) Liens imposed by governmental authorities for taxes, assessments or other charges not yet subject to penalty or which are being contested in good faith and by appropriate proceedings, if adequate reserves with respect thereto are maintained on the books of the Issuer in accordance with GAAP;
- (3) statutory Liens of carriers, warehousemen, mechanics, material men, landlords, repairmen or other like Liens arising by operation of law in the ordinary course of business, provided that (a) the underlying obligations are not overdue for a period of more than 30 days or (b) such Liens are being contested in good faith and by appropriate proceedings and adequate reserves with respect thereto are maintained on the books of the Issuer in accordance with GAAP;
- (4) Liens securing the performance of bids, trade contracts (other than borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds, letters of credit and other obligations of a like nature incurred in the ordinary course of business;
- (5) easements, rights-of-way, zoning, similar restrictions and other similar encumbrances or title defects which, singly or in the aggregate, do not in any case materially detract from the value of the property subject thereto (as such property is used by the Issuer or any of its Subsidiaries) or interfere with the ordinary conduct of the business of the Issuer or any of its Subsidiaries;
- (6) Liens arising by operation of law in connection with judgments, only to the extent, for an amount and for a period not resulting in an Event of Default with respect thereto;
- (7) pledges or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security legislation or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal-bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case incurred in the ordinary course of business;





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(8) Liens securing the Notes;

(9) Liens securing Indebtedness of a Person existing at the time such Person becomes a Subsidiary or is merged with or into the Issuer or a Subsidiary or Liens securing Indebtedness incurred in connection with an acquisition, provided that such Liens were in existence prior to the date of such acquisition, merger or consolidation, were not incurred in anticipation thereof, and do not extend to any other assets owned by the Issuer or any of its Subsidiaries;

(10) Liens arising from Purchase Money Indebtedness permitted to be incurred pursuant to the covenant described under Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock, provided such Liens relate solely to the property which is subject to such Purchase Money Indebtedness;

(11) leases or subleases or licenses or sublicenses (including of intellectual property) granted to other Persons in the ordinary course of business not materially interfering with the conduct of the business of the Issuer or any of its Subsidiaries;

(12) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases entered into by the Issuer or any of its Subsidiaries in the ordinary course of business;

(13) Liens securing Refinancing Indebtedness incurred to refinance any Indebtedness that was previously so secured (other than Indebtedness secured pursuant to clause (28)) in a manner no more adverse to the Holders than the terms of the Liens securing such refinanced Indebtedness, and provided that (a) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus improvements on such property), and (b) the amount of Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (i) the outstanding principal amount or, if greater, committed amount of the Indebtedness at the time of such refinancing (but only to the extent such committed amount, if not incurred at the time of such refinancing, would have been permitted to be incurred and secured under the Indenture on the date of such refinancing) and (ii) an amount necessary to pay any fees and expenses including premiums, related to such financing, refunding, extension, renewal or replacement;

(14) Liens securing Senior Indebtedness (including under the Credit Facilities) incurred in accordance with the terms of the covenant described under Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock;

(15) Liens securing Indebtedness of any Foreign Subsidiary incurred in accordance with the provisions of the covenant described under Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock;

(16) Liens securing Hedging Obligations;

(17) Liens securing Indebtedness or other obligations of a Subsidiary owing to the Issuer or a Guarantor permitted to be incurred in accordance with the covenant described under Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock;

(18) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of letters of credit or bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(19) Liens in favor of the Issuer or any Guarantor;

(20) Liens on equipment of the Issuer or any of its Subsidiaries granted in the ordinary course of business;

(21) deposits made in the ordinary course of business to secure liability to insurance carriers under insurance or self-insurance arrangements;

(22) other Liens securing obligations incurred in the ordinary course of business which obligations do not exceed \$10,000,000 at any one time outstanding;

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- (23) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;
- (24) Liens (a) of a collection bank arising under Section 4-210 of the Uniform Commercial Code, or any comparable or successor provision, on items in the course of collection, (b) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business and (c) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;
- (25) Liens deemed to exist in connection with Investments in repurchase agreements permitted under the covenant described under Certain Covenants Limitations on Restricted Payments , *provided* that such Liens do not extend to any assets other than those that are the subject of such repurchase agreements;
- (26) Liens that are contractual rights of set-off (a) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (b) relating to pooled deposit or sweep accounts of the Issuer or any of its Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Issuer and its Subsidiaries or (c) relating to purchase orders and other agreements entered into with customers of the Issuer or any of its Subsidiaries in the ordinary course of business;
- (27) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;
- (28) Liens (a) in respect of sale leasebacks permitted by the Credit Facility described in clause (1) of the definition of Credit Facility, and (b) securing Refinancing Indebtedness incurred to refinance any Indebtedness incurred to refinance the sale leasebacks described in clause (a) in a manner no more adverse to the Holders than the terms of the Liens securing such sale leaseback, and provided that (i) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus improvements on such property), and (ii) such Indebtedness shall provide no recourse to the Issuer or any of its Subsidiaries other than with respect to foreclosure upon the collateral securing such Lien;
- (29) Liens (a) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to the covenant described under Certain Covenants Limitations on Restricted Payments to be applied against the purchase price for such Investment, and (b) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in a transaction permitted under the covenant described under Repurchase at the Option of Holders Asset Sales, in each case, solely to the extent such Investment or sale, disposition, transfer or lease, as the case may be, would have been permitted on the date of the creation of such Lien; and Liens solely on any cash earnest money deposits made by the Issuer or any of its Subsidiaries in connection with any letter of intent or purchase agreement permitted by the Indenture;
- (30) Liens on Capital Stock in joint ventures securing obligations of such joint venture;
- (31) [Reserved];
- (32) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale or purchase of goods entered into by the Issuer or any Subsidiary in the ordinary course of business; and
- (33) Liens securing Indebtedness (other than Indebtedness that is secured equally and ratably (or on a basis subordinated to) the Notes) in an amount not to exceed 15% of the total assets of the Issuer and its Subsidiaries (calculated on a consolidated basis); *provided* that such Liens were created during a Suspension Period.

*Person* or *person* means (unless stated otherwise) any corporation, individual, limited liability company, joint stock company, joint venture, partnership, unincorporated association, governmental regulatory entity, country, state or political subdivision thereof, trust, municipality or other entity.

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*PIK Interest* means interest paid with respect to the Notes in the form of increasing the outstanding principal amount of the Notes or issuing PIK Notes.

*PIK Notes* means additional Notes issued under the Indenture on the same terms and conditions as the Notes issued on the Issue Date in connection with the payment of PIK Interest.

*Preferred Stock* means any Equity Interest of any class or classes of a Person (however designated) which is preferred as to payments of dividends, or as to distributions upon any liquidation or dissolution, over Equity Interests of any other class of such Person.

*Public Equity Offering* means an underwritten public offering generating net cash proceeds in excess of \$100,000,000 pursuant to a registration statement filed with the Commission in accordance with the Securities Act of (1) common stock of the Issuer or (2) common stock of any Parent Entity, to the extent that the cash proceeds therefrom are used as a Capital Contribution to the Issuer.

*Purchase Money Indebtedness* of any Person means any Indebtedness of such Person to any seller or other Person incurred solely to finance the acquisition (including in the case of a Capitalized Lease Obligation, the lease), construction, installation or improvement of any after acquired real or personal tangible property which is incurred within 270 days following with such acquisition, construction, installation or improvement and is secured only by the assets so financed. For the avoidance of doubt, it is understood and agreed that Purchase Money Indebtedness may be incurred under the Credit Facilities.

*Qualified Equity Offering* means any public or private sale of (1) Equity Interests (other than Disqualified Capital Stock) by the Issuer other than to an Affiliate or (2) Equity Interests by the Parent Entity where the Net Cash Proceeds of such sale are contributed to the Issuer as a Capital Contribution substantially concurrently therewith, and in each case, other than public offerings registered on a Form S-8.

*Qualified Exchange* means:

(1) any legal defeasance, redemption, retirement, repurchase or other acquisition of Capital Stock, or Indebtedness of the Issuer or any Parent Entity with the Net Cash Proceeds received by the Issuer made within 60 days of the sale of its Equity Interests (other than Disqualified Capital Stock) (other than to a Subsidiary) or, to the extent used to retire Indebtedness (other than Disqualified Capital Stock) of the Issuer issued on or after the Issue Date, Refinancing Indebtedness of the Issuer;

(2) any issuance of Equity Interests (other than Disqualified Capital Stock) of the Issuer or any Parent Entity in exchange for, or the proceeds of which are used to purchase, any Capital Stock or Indebtedness of the Issuer; or

(3) any issuance of Refinancing Indebtedness (including Disqualified Capital Stock) of the Issuer in exchange for, or the proceeds of which are used to purchase, Indebtedness (including Disqualified Capital Stock) of the Issuer.

*Rating Agency* means (1) each of Moody's and S&P and (2) if Moody's or S&P ceases to rate the Notes for reasons outside of the Issuer's control, a nationally recognized statistical rating organization within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act selected by the Issuer or any direct or indirect parent of the Issuer as a replacement agency for Moody's or S&P, as the case may be.

*Record Date* means a Record Date specified in the Notes, whether or not such date is a Business Day.

*Recourse Indebtedness* means Indebtedness as to which either the Issuer or any of its Subsidiaries (1) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (2) is directly or indirectly liable (as a guarantor or otherwise), or (3) constitutes the lender.

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*Reference Period* with regard to any Person means the four full fiscal quarters (or such lesser period during which such Person has been in existence) ended immediately preceding any date upon which any determination is to be made pursuant to the terms of the Notes or the Indenture.

*Refinancing Indebtedness* means Indebtedness (including Disqualified Capital Stock) (1) issued in exchange for, or the proceeds from the issuance and sale of which are used within 60 days to repay, redeem, defease, refund, refinance, discharge or otherwise retire for value, in whole or in part, or (2) constituting an amendment, modification or supplement to, or a deferral or renewal of ((1) and (2) above are, collectively, a Refinancing ), any Indebtedness (including the Notes and Disqualified Capital Stock) in a principal amount or, in the case of Disqualified Capital Stock, liquidation preference, not to exceed (after deduction of reasonable and customary fees and expenses (including defeasance costs) incurred in connection with the Refinancing plus the amount of any premium paid (including reasonable tender premiums) in connection with such Refinancing) the lesser of (a) the principal amount or, in the case of Disqualified Capital Stock, liquidation preference, of the Indebtedness (including Disqualified Capital Stock) so Refinanced and (b) if such Indebtedness being Refinanced was issued with an original issue discount, the accreted value thereof (as determined in accordance with GAAP) at the time of such Refinancing; *provided* that (i) such Refinancing Indebtedness shall only be used to refinance outstanding Indebtedness (including Disqualified Capital Stock) of such Person issuing such Refinancing Indebtedness, (ii) such Refinancing Indebtedness shall (A) not have an Average Life shorter than the Indebtedness (including Disqualified Capital Stock) to be so refinanced at the time of such Refinancing and (B) in all respects, be no less contractually subordinated or junior, if applicable, to the rights of Holders of the Notes than was the Indebtedness (including Disqualified Capital Stock) to be refinanced, (iii) such Refinancing Indebtedness shall have a final stated maturity or redemption date, as applicable, no earlier than the final stated maturity or redemption date, as applicable, of the Indebtedness (including Disqualified Capital Stock) to be so refinanced or, if sooner, 91 days after the Stated Maturity of the Notes, and (iv) such Refinancing Indebtedness shall be secured (if secured) in a manner no more adverse to the Holders of the Notes than the terms of the Liens (if any) securing such refinanced Indebtedness, and provided that (A) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus improvements on such property), and (B) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (I) the outstanding principal amount or, if greater, committed amount of the Indebtedness at the time the original Lien became a Permitted Lien under the Indenture, and (II) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement. For the avoidance of doubt, Indebtedness (other than Disqualified Capital Stock), shall not constitute Refinancing Indebtedness in connection with a Refinancing of Disqualified Capital Stock.

*Registration Rights Agreement* means the Registration Rights Agreement, dated as of Issue Date, by and among the Issuer and the Initial Purchasers, as such agreement may be amended, modified or supplemented from time to time.

*Related Business* means the business conducted (or proposed to be conducted) by the Issuer and its Subsidiaries as of the Issue Date or any reasonable extension thereof and any and all businesses that in the good faith judgment of the Board of Directors are materially related, ancillary or complementary businesses.

*Related Business Asset* means assets (except in connection with the acquisition of a Subsidiary in a Related Business that becomes a Guarantor, other than Notes, bonds, obligations and securities) and capital expenditures, in each case that, in the good faith reasonable judgment of the Board of Directors, will immediately constitute, be a part of, or be used in, a Related Business of the Issuer or a Subsidiary.

*Related Financing Transactions* means the financing transactions in connection with the consummation of the Merger, including the related equity investment by the Investors, members of management and others, the execution of, and borrowings on the Issue Date under, the Credit Facilities and the pledge and security arrangements in connection with the foregoing, the entry into the Indenture, the related Purchase Agreement with the Initial Purchasers and the Registration Rights Agreement, the refinancing, repurchase, redemption and/or

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repayment of the Existing Notes and certain other existing indebtedness of the Issuer and its Subsidiaries, the consummation of any other transactions connected with the Merger or the foregoing and the payment of fees and expenses in connection with the Merger or any of the foregoing.

*Restricted Investment* means, in one or a series of related transactions, any Investment, other than other Permitted Investments.

*Restricted Payment* means, with respect to any Person:

(1) the declaration or payment of any dividend or other distribution in respect of Equity Interests of such Person or any parent of such Person by the Issuer or any Subsidiary of the Issuer;

(2) any payment (except to the extent made with Equity Interests (other than Disqualified Capital Stock)) by the Issuer or any Subsidiary of the Issuer on account of the purchase, redemption or other acquisition or retirement for value of Equity Interests of such Person or any parent of such Person;

(3) other than with the proceeds from the substantially concurrent sale of, or in exchange for, Refinancing Indebtedness, any purchase, redemption, or other acquisition or retirement for value of, any payment in respect of any amendment of the terms of or any defeasance of, any Subordinated Indebtedness (other than the Notes), directly or indirectly, by the Issuer or any Subsidiary of the Issuer prior to the scheduled maturity, prior to any scheduled repayment of principal, or prior to any scheduled sinking fund payment, as the case may be, of such Indebtedness, other than:

(a) Indebtedness permitted under clause (4) of the definition of Permitted Indebtedness; or

(b) the purchase, repurchase or other acquisition of Subordinated Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; and

(4) any Restricted Investment by such Person,

*provided, however*, that the term *Restricted Payment* does not include (i) any dividend, distribution or other payment on or with respect to Equity Interests of an issuer to the extent payable solely in Equity Interests (other than Disqualified Capital Stock) of such issuer, (ii) any dividend, distribution or other payment to the Issuer, or to any Subsidiary of the Issuer, by the Issuer or any of its Subsidiaries and any Investment in any Subsidiary by the Issuer or any other Subsidiary and any Investment in the Issuer by any Subsidiary of the Issuer so long as the Issuer receives the proceeds of such Investment in the Issuer, (iii) the payment of the cash merger consideration in connection with the Merger or (iv) the repurchase, repayment, redemption or setting aside funds for the repurchase, repayment or redemption of the Existing Notes, including the payment of any consent fee in connection therewith or with any amendment of the terms thereof.

*Rule 144A* means Rule 144A promulgated under the Securities Act, as it may be amended from time to time, and any successor provision thereto.

*Securities Act* means the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder.

*Senior Indebtedness* of the Issuer or any Guarantor means Indebtedness of the Issuer or such Guarantor arising under the Credit Facilities (including any fees, costs and other monetary obligation in respect of the Credit Facilities, and interest, whether or not allowable, accruing on Indebtedness incurred pursuant to the Credit Facilities after the filing of a petition initiating any proceeding under any bankruptcy, insolvency or similar law) or that, by the terms of the instrument creating or evidencing such Indebtedness, is expressly designated as senior indebtedness and is senior in right of payment to the Notes or the applicable Guarantee and all obligations for principal, premium, interest, penalties, fees, indemnifications, expenses, reimbursements, damages and other amounts payable pursuant to the documentation governing or relating to such Indebtedness;

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*provided* that in no event shall Senior Indebtedness include (1) Indebtedness to any Subsidiary of the Issuer or any officer, director or employee of the Issuer or any Subsidiary of the Issuer, (2) Indebtedness incurred in violation of the terms of the Indenture; *provided* that such Indebtedness will not cease to be Senior Indebtedness as a result of this clause (2) if the lenders thereunder obtained a certificate from an executive officer of the Issuer on the date such Indebtedness was incurred certifying that the incurrence of such Indebtedness was not prohibited by the Indenture, (3) trade Indebtedness to trade creditors, (4) Disqualified Capital Stock, (5) any liability for taxes owed or owing by the Issuer or such Guarantor and (6) any other Indebtedness other than (A) Indebtedness incurred pursuant to clause (a), (b) or (c) of the third paragraph of the covenant described under Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock, (B) guarantees of Indebtedness described in clause (A) and (C) Hedging Obligations incurred with respect to Indebtedness described in clause (A) or (B).

*Significant Subsidiary* means any Subsidiary or group of Subsidiaries that would constitute a significant subsidiary as defined in Regulation S-X of the Securities Act, as in effect on the Issue Date.

*S&P* means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, and its successors.

*Stated Maturity*, when used with respect to any Note, means February 15, 2016.

*Subordinated Indebtedness* means Indebtedness of the Issuer or a Guarantor that is subordinated in right of payment by its terms or the terms of any document or instrument relating thereto ( contractually ) to the Notes or such Guarantee, as applicable, in any respect.

*Subsidiary*, with respect to any Person, means (1) a corporation a majority of whose Voting Equity Interests, under ordinary circumstances, to elect directors is at the time, directly or indirectly, owned by such Person, by such Person and one or more Subsidiaries of such Person or by one or more Subsidiaries of such Person, and (2) any other Person (other than a corporation) in which such Person, one or more Subsidiaries of such Person, or such Person and one or more Subsidiaries of such Person, directly or indirectly, at the date of determination thereof has a majority of the Voting Equity Interests, or (3) a partnership in which such Person or a Subsidiary of such Person is, at the time, a general partner and in which such Person, directly or indirectly, at the date of determination thereof has a majority ownership interest. Notwithstanding the foregoing, an Unrestricted Subsidiary shall not be a Subsidiary of the Issuer or of any Subsidiary of the Issuer. Unless the context requires otherwise, Subsidiary means each direct and indirect Subsidiary of the Issuer.

*TIA* means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbbb) as in effect on the date on which the Indenture is qualified under the TIA.

*Transaction Expenses* means any fees or expenses incurred or paid by the Issuer, any Parent Entity or any of their Subsidiaries in connection with the Merger and the Related Financing Transactions.

*Treasury Rate* means, as of any Redemption Date, the yield to maturity as of such Redemption Date of U.S. Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Release H.15(519) which has become publicly available at least two Business Days prior to such Redemption Date (or, if such Statistical Release is no longer published, any publicly available source or similar market data)) closest to the period from such Redemption Date to February 15, 2011, *provided, however*, that if the period from such Redemption Date to February 15, 2011, is not equal to the constant maturity of a U.S. Treasury security for which a weekly average yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of one year) from the weekly average yields of U.S. Treasury securities for which such yields are given, except that, if the period from the Redemption Date to February 15, 2011 is less than one year, the weekly average yield on actually traded U.S. Treasury securities adjusted to a constant maturity of one year shall be used.

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*Unrestricted Subsidiary* means any subsidiary of the Issuer designated by the Board of Directors as an Unrestricted Subsidiary, provided that, at the time of designation by the Board of Directors, such subsidiary does not directly, indirectly or beneficially own any Capital Stock of, and Indebtedness of, or own or hold any Lien on any property of, the Issuer or any other Subsidiary of the Issuer; *provided further*, that such Subsidiary at the time of such designation (1) has no Recourse Indebtedness; (2) is not party to any agreement, contract, arrangement or understanding with the Issuer or any Subsidiary of the Issuer unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Issuer or such Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Issuer (unless in compliance with the covenant described under *Certain Covenants Limitation on Transactions with Affiliates* ); (3) is a Person with respect to which neither the Issuer nor any of its Subsidiaries has any direct or indirect obligation (x) to subscribe for additional Equity Interests or (y) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and (4) does not guarantee or otherwise directly or indirectly provide credit support for any Indebtedness of the Issuer or any of its Subsidiaries. The Board of Directors may designate any Unrestricted Subsidiary to be a Subsidiary, provided that (a) no Default or Event of Default is existing or will occur as a consequence thereof and (b) immediately after giving effect to such designation, on a *pro forma* basis, either (i) the Issuer could incur at least \$1.00 of Indebtedness pursuant to the Debt Incurrence Ratio set forth in the covenant described under *Certain Covenants Limitation on Incurrence of Additional Indebtedness and Disqualified Capital Stock* or (ii) so long as the Debt Incurrence Ratio prior to such designation is greater than 1.25 to 1.0, the Debt Incurrence Ratio would be greater than such ratio immediately prior to such designation. Each such designation shall be evidenced by filing with the Trustee a certified copy of the resolution giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing conditions.

*U.S. Government Obligations* means direct non-callable obligations of, or noncallable obligations guaranteed by, the United States of America for the payment of which obligation or guarantee the full faith and credit of the United States of America is pledged.

*Voting Equity Interests* means Equity Interests which at the time are entitled to vote in the election of, as applicable, directors, members or partners generally.

*Wholly Owned Subsidiary* means a Subsidiary all the Equity Interests of which (other than directors' qualifying shares) are owned by the Issuer or one or more Wholly Owned Subsidiaries of the Issuer or a combination thereof.

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**THE EXCHANGE OFFER**

**Purpose and Effect of the Exchange Offer**

Goodman Global, Inc. and the guarantors of the notes have entered into a registration rights agreement with the initial purchasers of the outstanding notes in which they agreed, under certain circumstances, to use their reasonable best efforts to file a registration statement relating to offers to exchange the outstanding notes for exchange notes and thereafter cause the registration statement to become effective under the Securities Act no later than 270 days following the closing date of the issuances of the outstanding notes. The exchange notes will have terms identical in all material respects to the outstanding notes, except that the exchange notes will not contain terms with respect to transfer restrictions, registration rights and additional interest for failure to observe certain obligations in the registration rights agreement. The outstanding notes were issued on February 13, 2008.

Under the circumstances set forth below, Goodman Global, Inc. and the guarantors will use their reasonable best efforts to cause the SEC to declare effective a shelf registration statement with respect to the resale of the outstanding notes within the time periods specified in the registration rights agreement and keep the statement effective for up to two years after the effective date of the shelf registration statement. These circumstances include:

if any changes in law, SEC rules or regulations or applicable interpretations thereof by the SEC do not permit us to effect the exchange offer as contemplated by the registration rights agreement;

if the exchange offer is not completed within 330 days after the date of issuance of the outstanding notes; or

if any holder that participates in the exchange offer, but, because of any changes in law, SEC rules or regulations or applicable interpretations thereof by the SEC, does not receive freely transferable exchange notes in exchange for tendered outstanding notes, and so notifies Goodman Global, Inc. within 30 days after consummation of the exchange offer.

Under the registration rights agreement, if Goodman Global, Inc. fails to obtain effectiveness of the exchange offer registration statement on or prior to 270 days after the issue date of the outstanding notes (the exchange offer target registration date), or complete the exchange offer within 30 business days of its effectiveness (other than in the event we file a shelf registration statement), or if the shelf registration statement, if required thereby, is not declared effective, on or prior to 480 days after the issue date of the outstanding notes (the shelf target registration date, and together with the exchange offer target registration date, the target registration date), or if the shelf registration statement ceases to be effective at any time prior to the one year anniversary of its initial effectiveness, the interest rate on the outstanding notes will be increased by (x) 0.25% per annum for the first 90-day period immediately following the target registration date and (y) an additional 0.25% per annum with respect to each subsequent 90-day period, in each case, until the exchange offer is completed or the shelf registration statement, if required, is declared effective by the SEC or the outstanding notes cease to constitute transfer restricted notes, up to a maximum of 1.00% per annum of additional interest. Copies of the registration rights agreement have been filed as exhibits to the registration statement of which this prospectus is a part.

If you wish to exchange your outstanding notes for exchange notes in the exchange offer, you will be required to make the following written representations:

you are not our affiliate or an affiliate of any guarantor within the meaning of Rule 405 of the Securities Act;

you have no arrangement or understanding with any person to participate in a distribution (within the meaning of the Securities Act) of the exchange notes in violation of the provisions of the Securities Act;



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you are not engaged in, and do not intend to engage in, a distribution of the exchange notes; and

you are acquiring the exchange notes in the ordinary course of your business.

Each broker-dealer that receives exchange notes for its own account in exchange for outstanding notes, where the broker-dealer acquired the outstanding notes as a result of market-making activities or other trading activities, must acknowledge that it will deliver a prospectus in connection with any resale of such exchange notes. Please see Plan of Distribution.

### **Resale of Exchange Notes**

Based on interpretations by the SEC set forth in no-action letters issued to third parties, we believe that you may resell or otherwise transfer exchange notes issued in the exchange offer without complying with the registration and prospectus delivery provisions of the Securities Act, if:

you are not our affiliate or an affiliate of any guarantor within the meaning of Rule 405 under the Securities Act;

you do not have an arrangement or understanding with any person to participate in a distribution of the exchange notes;

you are not engaged in, and do not intend to engage in, a distribution of the exchange notes; and

you are acquiring the exchange notes in the ordinary course of your business.

If you are our affiliate or an affiliate of any guarantor, or are engaging in, or intend to engage in, or have any arrangement or understanding with any person to participate in, a distribution of the exchange notes, or are not acquiring the exchange notes in the ordinary course of your business:

you cannot rely on the position of the SEC set forth in Morgan Stanley & Co. Incorporated (available June 5, 1991) and Exxon Capital Holdings Corporation (available May 13, 1988), as interpreted in the SEC's letter to Shearman & Sterling, dated July 2, 1993, or similar no-action letters; and

in the absence of an exception from the position stated immediately above, you must comply with the registration and prospectus delivery requirements of the Securities Act in connection with any resale of the exchange notes.

This prospectus may be used for an offer to resell, resale or other transfer of exchange notes only as specifically set forth in this prospectus. With regard to broker-dealers, only broker-dealers that acquired the outstanding notes as a result of market-making activities or other trading activities may participate in the exchange offer. Each broker-dealer that receives exchange notes for its own account in exchange for outstanding notes, where such outstanding notes were acquired by such broker-dealer as a result of market-making activities or other trading activities, must acknowledge that it will deliver a prospectus in connection with any resale of the exchange notes. Please read Plan of Distribution for more details regarding the transfer of exchange notes.

### **Terms of the Exchange Offer**

On the terms and subject to the conditions set forth in this prospectus and in the accompanying letters of transmittal, Goodman Global, Inc. will accept for exchange in the exchange offer any outstanding notes that are validly tendered and not validly withdrawn prior to the expiration date. Outstanding notes may only be tendered in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. Goodman Global, Inc. will issue \$2,000 principal amount of exchange notes in exchange for each \$2,000 principal amount of outstanding notes surrendered in the exchange offer, and integral multiples of \$1,000 in excess thereof.

The form and terms of the exchange notes will be identical in all material respects to the form and terms of the outstanding notes except the exchange notes will be registered under the Securities Act, will not bear legends restricting their transfer and will not provide for any additional

interest upon our failure to fulfill our obligations

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under the registration rights agreement to complete the exchange offer, or file, and cause to be effective, a shelf registration statement, if required thereby, within the specified time period. The exchange notes will evidence the same debt as the outstanding notes. The exchange notes will be issued under and entitled to the benefits of the indenture that authorized the issuance of the outstanding notes. For a description of the indenture, see Description of the Notes.

The exchange offer is not conditioned upon any minimum aggregate principal amount of outstanding notes being tendered for exchange.

As of the date of this prospectus, \$500.0 million aggregate principal amount of the 13.50%/14.00% Senior Subordinate Notes due 2016 are outstanding. This prospectus and the letters of transmittal are being sent to all registered holders of outstanding notes. There will be no fixed record date for determining registered holders of outstanding notes entitled to participate in the exchange offer. Goodman Global, Inc. intends to conduct the exchange offer in accordance with the provisions of the registration rights agreement, the applicable requirements of the Securities Act and the Securities Exchange Act of 1934, as amended (the Exchange Act), and the rules and regulations of the SEC. Outstanding notes that are not tendered for exchange in the exchange offer will remain outstanding and continue to accrue interest and will be entitled to the rights and benefits such holders have under the indenture relating to such holders' series of outstanding notes and the registration rights agreement except we will not have any further obligation to you to provide for the registration of the outstanding notes under the registration rights agreement.

Goodman Global, Inc. will be deemed to have accepted for exchange properly tendered outstanding notes when it has given written notice of the acceptance to the exchange agent. The exchange agent will act as agent for the tendering holders for the purposes of receiving the exchange notes from us and delivering exchange notes to holders. Subject to the terms of the registration rights agreement, Goodman Global, Inc. expressly reserves the right to amend or terminate the exchange offer and to refuse to accept the occurrence of any of the conditions specified below under Conditions to the Exchange Offer.

If you tender your outstanding notes in the exchange offer, you will not be required to pay brokerage commissions or fees or, subject to the instructions in the letter of transmittal, transfer taxes with respect to the exchange of outstanding notes. We will pay all charges and expenses, other than certain applicable taxes described below in connection with the exchange offer. It is important that you read Fees and Expenses below for more details regarding fees and expenses incurred in the exchange offer.

**Expiration Date; Extensions, Amendments**

As used in this prospectus, the term expiration date means 5:00 p.m., New York City time, on July 18, 2008. However, if we, in our sole discretion, extend the period of time for which the exchange offer is open, the term expiration date will mean the latest time and date to which we shall have extended the expiration of such exchange offer.

To extend the period of time during which an exchange offer is open, we will notify the exchange agent of any extension or written notice, followed by notification by press release or other public announcement to the registered holders of the outstanding notes no later than 9:00 a.m., New York City time, on the next business day after the previously scheduled expiration date.

Goodman Global, Inc. reserves the right, in its sole discretion:

to delay accepting for exchange any outstanding notes (only in the case that we amend or extend the exchange offer);

to extend the exchange offer or to terminate the exchange offer if any of the conditions set forth below under Conditions to the Exchange Offer have not been satisfied, by giving written notice of such delay, extension or termination to the exchange agent; and

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subject to the terms of the registration rights agreement, to amend the terms of the exchange offer in any manner. In the event of a material change in the exchange offer, including the waiver of a material condition, we will extend the offer period, if necessary, so that at least five business days remain in such offer period following notice of the material change.

Any delay in acceptance, extension, termination or amendment will be followed as promptly as practicable by written notice to the registered holders of the outstanding notes. If Goodman amends an exchange offer in a manner that we determine to constitute a material change, it will promptly disclose the amendment in a manner reasonably calculated to inform the holders of applicable outstanding notes of that amendment.

**Conditions to the Exchange Offer**

Despite any other term of the exchange offer, Goodman Global, Inc. will not be required to accept for exchange, or to issue exchange notes in exchange for, any outstanding notes and it may terminate or amend the exchange offer as provided in this prospectus prior to the expiration date if in its reasonable judgment:

the exchange offer or the making of any exchange by a holder violates any applicable law or interpretation of the SEC; or

any action or proceeding has been instituted or threatened in writing in any court or by or before any governmental agency with respect to the exchange offer that, in our judgment, would reasonably be expected to impair our ability to proceed with the exchange offer.

In addition, Goodman Global, Inc. will not be obligated to accept for exchange the outstanding notes of any holder that has not made to us:

the representations described under Purpose and Effect of the Exchange Offer, Procedures for Tendering and Plan of Distribution; or

any other representations as may be reasonably necessary under applicable SEC rules, regulations, or interpretations to make available to us an appropriate form for registration of the exchange notes under the Securities Act.

Goodman Global, Inc. expressly reserves the right at any time or at various times to extend the period of time during which the exchange offer is open. Consequently, Goodman Global, Inc. may delay acceptance of any outstanding notes by giving oral or written notice of such extension to their holders. Goodman Global, Inc. will return any outstanding notes that it does not accept for exchange for any reason without expense to their tendering holder promptly after the expiration or termination of the exchange offer.

Goodman Global, Inc. expressly reserves the right to amend or terminate the exchange offer and to reject for exchange any outstanding notes not previously accepted for exchange, upon the occurrence of any of the conditions of the exchange offer specified above. Goodman Global, Inc. will give oral or written notice of any extension, amendment, non-acceptance or termination to the holders of the outstanding notes as promptly as practicable. In the case of any extension, such notice will be issued no later than 9:00 a.m., New York City time, on the next business day after the previously scheduled expiration date.

These conditions are for our sole benefit and Goodman Global, Inc. may assert them regardless of the circumstances that may give rise to them or waive them in whole or in part at any or at various times prior to the expiration date in our sole discretion. If Goodman Global, Inc. fails at any time to exercise any of the foregoing rights, this failure will not constitute a waiver of such right. Each such right will be deemed an ongoing right that it may assert at any time or at various times prior to the expiration date.

In addition, Goodman Global, Inc. will not accept for exchange any outstanding notes tendered, and will not issue exchange notes in exchange for any such outstanding notes, if at such time any stop order is threatened or in effect with respect to the registration statement of which this prospectus constitutes a part or the qualification of the indenture under the Trust Indenture Act of 1939, as amended (the TIA).

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### **Procedures for Tendering Outstanding Notes**

To tender your outstanding notes in the exchange offer, you must comply with either of the following:

complete, sign and date the letter of transmittal, or a facsimile of the letter of transmittal, have the signature(s) on the letter of transmittal guaranteed if required by the letter of transmittal and mail or deliver such letter of transmittal or facsimile thereof to the exchange agent at the address set forth below under "Exchange Agent Notes" prior to the expiration date; or

comply with DTC's Automated Tender Offer Program procedures described below.

In addition, you will comply with either of the following conditions:

the exchange agent must receive certificates for outstanding notes along with the letter of transmittal prior to the expiration date;

the exchange agent must receive a timely confirmation of book-entry transfer of outstanding notes into the exchange agent's account at DTC according to the procedures for book-entry transfer described below or a properly transmitted agent's message prior to the expiration date; or

you must comply with the guaranteed delivery procedures described below.

Your tender, if not withdrawn prior to the expiration date, constitutes an agreement between us and you upon the terms and subject to the conditions described in this prospectus and in the letter of transmittal.

The method of delivery of outstanding notes, letters of transmittal, and all other required documents to the exchange agent is at your election and risk. We recommend that instead of delivery by mail, you use an overnight or hand delivery service, properly insured. In all cases, you should allow sufficient time to assure timely delivery to the exchange agent before the expiration date. You should not send letters of transmittal or certificates representing outstanding notes to us. You may request that your broker, dealer, commercial bank, trust company or nominee effect the above transactions for you.

If you are a beneficial owner whose outstanding notes are registered in the name of a broker, dealer, commercial bank, trust company, or other nominee and you wish to tender your outstanding notes, you should promptly contact the registered holder and instruct the registered holder to tender on your behalf. If you wish to tender the outstanding notes yourself, you must, prior to completing and executing the letter of transmittal and delivering your outstanding notes, either:

make appropriate arrangements to register ownership of the outstanding notes in your name; or

obtain a properly completed bond power from the registered holder of outstanding notes.

The transfer of registered ownership may take considerable time and may not be able to be completed prior to the expiration date.

Signatures on the letter of transmittal or a notice of withdrawal, as the case may be, must be guaranteed by a member firm of a registered national securities exchange or of the Financial Industry Regulatory Authority, a commercial bank or trust company having an office or correspondent in the United States or another eligible guarantor institution within the meaning of Rule 17A(d)-15 under the Exchange Act unless the outstanding notes surrendered for exchange are tendered:

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by a registered holder of the outstanding notes who has not completed the box entitled "Special Registration Instructions" or "Special Delivery Instructions" on the letter of transmittal; or

for the account of an eligible guarantor institution.

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If the letter of transmittal is signed by a person other than the registered holder of any outstanding notes listed on the outstanding notes, such outstanding notes must be endorsed or accompanied by a properly completed bond power. The bond power must be signed by the registered holder as the registered holder's name appears on the outstanding notes and an eligible guarantor institution must guarantee the signature on the bond power.

If the letter of transmittal or any certificates representing outstanding notes, or bond powers are signed by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations, or others acting in a fiduciary or representative capacity, those persons should also indicate when signing and, unless waived by us, they should also submit evidence satisfactory to us of their authority to so act.

The exchange agent and DTC have confirmed that any financial institution that is a participant in DTC's system may use DTC's Automated Tender Offer Program to tender. Participants in the program may, instead of physically completing and signing the letter of transmittal and delivering it to the exchange agent, electronically transmit their acceptance of the exchange by causing DTC to transfer the outstanding notes to the exchange agent in accordance with DTC's Automated Tender Offer Program procedures for transfer. DTC will then send an agent's message to the exchange agent. The term "agent's message" means a message transmitted by DTC, received by the exchange agent and forming part of the book-entry confirmation, which states that:

DTC has received an express acknowledgment from a participant in its Automated Tender Offer Program that is tendering outstanding notes that are the subject of the book-entry confirmation;

the participant has received and agrees to be bound by the terms of the letter of transmittal, or in the case of an agent's message relating to guaranteed delivery, that such participant has received and agrees to be bound by the notice of guaranteed delivery; and

we may enforce that agreement against such participant.

DTC is referred to herein as a "book-entry transfer facility."

### **Acceptance of Exchange Notes**

In all cases, Goodman Global, Inc. will promptly issue exchange notes for outstanding notes that it has accepted for exchange under the exchange offer only after the exchange agent timely receives:

outstanding notes or a timely book-entry confirmation of such outstanding notes into the exchange agent's account at the book-entry transfer facility; and

a properly completed and duly executed letter of transmittal and all other required documents or a properly transmitted agent's message.

By tendering outstanding notes pursuant to the exchange offer, you will represent to us that, among other things:

you are not our "affiliate" or an "affiliate" of any guarantor within the meaning of Rule 405 under the Securities Act;

you do not have an arrangement or understanding with any person or entity to participate in a distribution of the exchange notes; and

you are acquiring the exchange notes in the ordinary course of your business.

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In addition, each broker-dealer that is to receive exchange notes for its own account in exchange for outstanding notes must represent that such outstanding notes were acquired by that broker-dealer as a result of market-making activities or other trading activities and must acknowledge that it will deliver a prospectus that meets the requirements of the Securities Act in connection with any resale of the exchange notes. The letter of



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transmittal states that by so acknowledging and by delivering a prospectus, a broker-dealer will not be deemed to admit that it is an underwriter within the meaning of the Securities Act. See Plan of Distribution.

Goodman Global, Inc. will interpret the terms and conditions of the exchange offer, including the letters of transmittal and the instructions to the letters of transmittal, and will resolve all questions as to the validity, form, eligibility, including time of receipt, and acceptance of outstanding notes tendered for exchange. Our determinations in this regard will be final and binding on all parties. Goodman Global, Inc. reserves the absolute right to reject any and all tenders of any particular outstanding notes not properly tendered or to not accept any particular outstanding notes if the acceptance might, in its or its counsel's judgment, be unlawful. We also reserve the absolute right to waive any defects or irregularities as to any particular outstanding notes prior to the expiration date.

Unless waived, any defects or irregularities in connection with tenders of outstanding notes for exchange must be cured within such reasonable period of time as we determine. Neither Goodman Global, Inc., the exchange agent, nor any other person will be under any duty to give notification of any defect or irregularity with respect to any tender of outstanding notes for exchange, nor will any of them incur any liability for any failure to give notification. Any outstanding notes received by the exchange agent that are not properly tendered and as to which the irregularities have not been cured or waived will be returned by the exchange agent to the tendering holder, unless otherwise provided in the letter of transmittal, promptly after the expiration date.

### **Book-Entry Delivery Procedures**

Promptly after the date of this prospectus, the exchange agent will establish an account with respect to the outstanding notes at DTC and, as the book-entry transfer facility, for purposes of the exchange offer. Any financial institution that is a participant in the book-entry transfer facility's system may make book-entry delivery of the outstanding notes by causing the book-entry transfer facility to transfer those outstanding notes into the exchange agent's account at the facility in accordance with the facility's procedures for such transfer. To be timely, book-entry delivery of outstanding notes requires receipt of a confirmation of a book-entry transfer, a book-entry confirmation, prior to the expiration date. In addition, although delivery of outstanding notes may be effected through book-entry transfer into the exchange agent's account at the book-entry transfer facility, the letter of transmittal or a manually signed facsimile thereof, together with any required signature guarantees and any other required documents, or an agent's message, as defined below, in connection with a book-entry transfer, must, in any case, be delivered or transmitted to and received by the exchange agent at its address set forth on the cover page of the letter of transmittal prior to the expiration date to receive exchange notes for tendered outstanding notes, or the guaranteed delivery procedure described below must be complied with. Tender will not be deemed made until such documents are received by the exchange agent. Delivery of documents to the book-entry transfer facility does not constitute delivery to the exchange agent.

Holders of outstanding notes who are unable to deliver confirmation of the book-entry tender of their outstanding notes into the exchange agent's account at the book-entry transfer facility or all other documents required by the letter of transmittal to the exchange agent on or prior to the expiration date must tender their outstanding notes according to the guaranteed delivery procedures described below.

### **Guaranteed Delivery Procedures**

If you wish to tender your outstanding notes but your outstanding notes are not immediately available or you cannot deliver your outstanding notes, the letter of transmittal or any other required documents to the exchange agent or comply with the procedures under DTC's Automatic Tender Offer Program in the case of outstanding notes, prior to the expiration date, you may still tender if:

the tender is made through an eligible guarantor institution;

prior to the expiration date, the exchange agent receives from such eligible guarantor institution either a properly completed and duly executed notice of guaranteed delivery, by facsimile transmission, mail,

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or hand delivery or a properly transmitted agent's message and notice of guaranteed delivery, that (1) sets forth your name and address, the certificate number(s) of such outstanding notes and the principal amount of outstanding notes tendered; (2) states that the tender is being made thereby; and (3) guarantees that, within three New York Stock Exchange trading days after the expiration date, the letter of transmittal, or facsimile thereof, together with the outstanding notes or a book-entry confirmation, and any other documents required by the letter of transmittal, will be deposited by the eligible guarantor institution with the exchange agent; and

the exchange agent receives the properly completed and executed letter of transmittal or facsimile thereof, as well as certificate(s) representing all tendered outstanding notes in proper form for transfer or a book-entry confirmation of transfer of the outstanding notes into the exchange agent's account at DTC all other documents required by the letter of transmittal within three New York Stock Exchange trading days after the expiration date.

Upon request, the exchange agent will send to you a notice of guaranteed delivery if you wish to tender your outstanding notes according to the guaranteed delivery procedures.

## **Withdrawal Rights**

Except as otherwise provided in this prospectus, you may withdraw your tender of outstanding notes at any time prior to 5:00 p.m., New York City time, on the expiration date.

For a withdrawal to be effective:

the exchange agent must receive a written notice, which may be by telegram, telex, facsimile or letter, of withdrawal at its address set forth below under Exchange Agent; or

you must comply with the appropriate procedures of DTC's Automated Tender Offer Program system.

Any notice of withdrawal must:

specify the name of the person who tendered the outstanding notes to be withdrawn;

identify the outstanding notes to be withdrawn, including the certificate numbers and principal amount of the outstanding notes; and

where certificates for outstanding notes have been transmitted, specify the name in which such outstanding notes were registered, if different from that of the withdrawing holder.

If certificates for outstanding notes have been delivered or otherwise identified to the exchange agent, then, prior to the release of such certificates, you must also submit:

the serial numbers of the particular certificates to be withdrawn; and

a signed notice of withdrawal with signatures guaranteed by an eligible institution unless you are an eligible guarantor institution. If outstanding notes have been tendered pursuant to the procedures for book-entry transfer described above, any notice of withdrawal must specify the name and number of the account at the book-entry transfer facility to be credited with the withdrawn outstanding notes and otherwise comply with the procedures of the facility. We will determine all questions as to the validity, form, and eligibility, including time of receipt of notices of withdrawal and our determination will be final and binding on all parties. Any outstanding notes so withdrawn will be deemed not to have been validly tendered for exchange for purposes of the exchange offer. Any outstanding notes that have been tendered for exchange but

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that are not exchanged for any reason will be returned to their holder, without cost to the holder, or, in the case of book-entry transfer, the outstanding notes will be credited to an account at the book-entry transfer facility, promptly after withdrawal, rejection of tender or

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termination of the exchange offer. Properly withdrawn outstanding notes may be retendered by following the procedures described under Procedures for Tendering Outstanding Notes above at any time on or prior to the expiration date.

**Exchange Agent**

Wells Fargo Bank, National Association has been appointed as the exchange agent for the exchange offer. Wells Fargo Bank, National Association also acts as trustee under the indenture governing the notes. You should direct all executed letters of transmittal and all questions and requests for assistance, requests for additional copies of this prospectus or of the letters of transmittal, and requests for notices of guaranteed delivery to the exchange agent addressed as follows:

<b>By Registered or Certified Mail:</b>	<b>By Regular Mail or Overnight Courier:</b>	<b>By Hand Delivery:</b>
Wells Fargo Bank, N.A.	Wells Fargo Bank, N.A.	Wells Fargo Bank, N.A.
Corporate Trust Operations	Corporate Trust Operations	Corporate Trust Services
MAC # N9303-121	MAC # N9303-121	Northstar East Building,
P.O. Box 1517	Sixth Street & Marquette Avenue	12th Floor
Minneapolis, MN 55480	Minneapolis, MN 55479	608 Second Avenue South
		Minneapolis, MN 55402
	By Facsimile Transmission:	
	(eligible institutions only):	
	(612) 667-6282	
	Telephone Inquiries:	
	(800) 344-5128	

*Note:* Delivery of this instrument to an address other than as set forth above, or transmission of instructions other than as set forth above, will not constitute a valid delivery.

If you deliver the letter of transmittal to an address other than the one set forth above or transmit instructions via facsimile other than the one set forth above, that delivery or those instructions will not be effective.

**Fees and Expenses**

The registration rights agreement provides that we will bear all expenses in connection with the performance of our obligations relating to the registration of the exchange notes and the conduct of the exchange offer. These expenses include registration and filing fees, accounting and legal fees and printing costs, among others. We will pay the exchange agent reasonable and customary fees for its services and reasonable out-of-pocket expenses. We will also reimburse brokerage houses and other custodians, nominees and fiduciaries for customary mailing and handling expenses incurred by them in forwarding this prospectus and related documents to their clients that are holders of outstanding notes and for handling or tendering for such clients.

We have not retained any dealer-manager in connection with the exchange offer and will not pay any fee or commission to any broker, dealer, nominee or other person, other than the exchange agent, for soliciting tenders of outstanding notes pursuant to the exchange offer.

**Accounting Treatment**

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We will record the exchange notes in our accounting records at the same carrying value as the outstanding notes, which is the aggregate principal amount as reflected in our accounting records on the date of exchanges. Accordingly, we will not recognize any gain or loss for accounting purposes upon the consummation of the exchange offer. We will record the expenses of the exchange offer as incurred.

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### **Transfer Taxes**

We will pay all transfer taxes, if any, applicable to the exchanges of outstanding notes under the exchange offer. The tendering holder, however, will be required to pay any transfer taxes, whether imposed on the registered holder or any other person, if:

certificates representing outstanding notes for principal amounts not tendered or accepted for exchange are to be delivered to, or are to be issued in the name of, any person other than the registered holder of outstanding notes tendered;

tendered outstanding notes are registered in the name of any person other than the person signing the letter of transmittal; or

a transfer tax is imposed for any reason other than the exchange of outstanding notes under the exchange offer.

If satisfactory evidence of payment of such taxes is not submitted with the letter of transmittal, the amount of such transfer taxes will be billed to that tendering holder.

Holders who tender their outstanding notes for exchange will not be required to pay any transfer taxes. However, holders who instruct us to register exchange notes in the name of, or request that outstanding notes not tendered or not accepted in the exchange offer be returned to, a person other than the registered tendering holder will be required to pay any applicable transfer tax.

### **Consequences of Failure to Exchange**

If you do not exchange your outstanding notes for exchange notes under the exchange offer, your outstanding notes will remain subject to the restrictions on transfer of such outstanding notes:

as set forth in the legend printed on the outstanding notes as a consequence of the issuance of the outstanding notes pursuant to the exemptions from, or in transactions not subject to, the registration requirements of the Securities Act and applicable state securities laws; and

as otherwise set forth in the offering memorandum distributed in connection with the private offerings of the outstanding notes.

In general, you may not offer or sell your outstanding notes unless they are registered under the Securities Act or if the offer or sale is exempt from registration under the Securities Act and applicable state securities laws. Except as required by the registration rights agreement, we do not intend to register resales of the outstanding notes under the Securities Act.

### **Other**

Participating in the exchange offer is voluntary, and you should carefully consider whether to accept. You are urged to consult your financial and tax advisors in making your own decision on what action to take.

We may in the future seek to acquire untendered outstanding notes in open market or privately negotiated transactions, through subsequent exchange offers or otherwise. We have no present plans to acquire any outstanding notes that are not tendered in the exchange offer or to file a registration statement to permit resales of any untendered outstanding notes.

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**MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES**

**Exchange Offer**

The exchange of outstanding notes for exchange notes in the exchange offer will not constitute a taxable event to holders for U.S. federal income tax purposes. Consequently, no gain or loss will be recognized by a holder upon receipt of an exchange note, the holding period of the exchange note will include the holding period of the outstanding note exchanged therefor and the basis of the exchange note will be the same as the basis of the outstanding note immediately before the exchange.

In any event, persons considering the exchange of outstanding notes for exchange notes should consult their own tax advisors concerning the U.S. federal income tax consequences in light of their particular situations as well as any consequences arising under the laws of any other taxing jurisdiction.

**Ownership of the Notes**

The following is a summary of material U.S. federal income and, in the case of non-U.S. holders (as defined below), estate tax consequences of the purchase, ownership and disposition of the notes as of the date hereof.

Except where noted, this summary deals only with notes that are held as capital assets. As used herein, a U.S. holder means a beneficial owner of the notes that is for U.S. federal income tax purposes any of the following:

an individual citizen or resident of the United States;

a corporation (or any other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;

an estate the income of which is subject to U.S. federal income taxation regardless of its source; or

a trust if it (1) is subject to the primary supervision of a court within the United States and one or more United States persons have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable United States Treasury regulations to be treated as a United States person.

The term non-U.S. holder means a beneficial owner of the notes (other than a partnership or any other entity treated as a partnership for U.S. federal income tax purposes) that is not a U.S. holder. This summary does not represent a detailed description of the U.S. federal income tax consequences applicable to you if you are a person subject to special tax treatment under the U.S. federal income tax laws, including, without limitation:

a dealer in securities or currencies;

a financial institution;

a regulated investment company;

a real estate investment trust;

a tax-exempt organization;

an insurance company;

a person holding the notes as part of a hedging, integrated, conversion or constructive sale transaction or a straddle;

a trader in securities that has elected the mark-to-market method of accounting for your securities;

a person liable for alternative minimum tax;



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a partnership or other pass-through entity for U.S. federal income tax purposes;

a U.S. holder whose functional currency is not the U.S. dollar;

a controlled foreign corporation;

a passive foreign investment company; or

a U.S. expatriate.

This summary is based on the Internal Revenue Code of 1986, as amended (the Code), United States Treasury regulations, administrative rulings and judicial decisions as of the date hereof. Those authorities may be changed, possibly on a retroactive basis, so as to result in U.S. federal income and estate tax consequences different from those summarized below.

If a partnership (including any entity classified as a partnership for U.S. federal income tax purposes) holds notes, the tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. If you are a partnership or a partner in a partnership holding notes, you should consult your own tax advisors.

This summary does not represent a detailed description of the U.S. federal income and estate tax consequences to you in light of your particular circumstances and does not address the effects of any state, local or non-United States tax laws. It is not intended to be, and should not be construed to be, legal or tax advice to any particular purchaser of notes. **If you are considering the purchase of notes, you should consult your own tax advisors concerning the particular U.S. federal income and estate tax consequences to you of the ownership of the notes, as well as the consequences to you arising under the laws of any other taxing jurisdiction.**

**Material Tax Consequences to U.S. holders**

The following is a summary of material U.S. federal income tax consequences that will apply to U.S. holders of the notes.

**Notes**

***Original Issue Discount***

Because the notes were initially sold at a discount and provide us with the option to pay PIK interest in lieu of paying cash interest for any interest payment period subject to certain limitations, the notes are treated as issued with original issue discount (OID), as described below. The issuance of PIK Notes is generally not treated as a payment of interest. Instead, a note and any PIK Notes issued in respect of PIK Interest thereon are treated as a single debt instrument under the OID rules. For U.S. federal income tax purposes, increasing the principal amount of the notes will generally be treated the same as the issuance of PIK Notes.

The notes are treated as issued with OID in an amount equal to the difference between their stated redemption price at maturity (the sum of all payments to be made on the notes other than qualified stated interest) and their issue price.

The issue price of the notes is the first price at which a substantial amount of such notes were sold (other than to an underwriter, placement agent or wholesaler). The term qualified stated interest means stated interest that is unconditionally payable in cash or in property (other than debt instruments of the issuer) at least annually at a single fixed rate or, subject to certain conditions, based on one or more interest indices. Because we have the option for any interest payment period, subject to certain limitations, to make interest payments in PIK Interest instead of paying cash, the stated interest payments on the notes are not qualified stated interest.

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You must generally include OID in your gross income as it accrues over the term of the notes without regard to your regular method of accounting for U.S. federal income tax purposes and in advance of the receipt of cash payments attributable to that income. The amount of OID that you must include in income if you are the initial holder of a note will generally equal the sum of the daily portions of OID with respect to the note for each day during the taxable year or portion of the taxable year in which you held such note (accrued OID). The daily portion is determined by allocating to each day in any accrual period a pro rata portion of the OID allocable to that accrual period. The accrual period for a note may be of any length and may vary in length over the term of the note, provided that each accrual period is no longer than one year and each scheduled payment of principal or interest occurs on the first day or the final day of an accrual period. The amount of OID allocable to any accrual period other than the final accrual period is an amount equal to the product of the note's adjusted issue price at the beginning of such accrual period and its yield to maturity (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period). OID allocable to a final accrual period is the difference between the amount payable at maturity and the adjusted issue price at the beginning of the final accrual period. The yield to maturity of a note is the discount rate that causes the present value of all payments on the note as of its original issue date to equal the issue price of such note. For purposes of determining the yield to maturity, the assumption is that we will pay interest in cash and not exercise the option to pay PIK Interest.

The adjusted issue price of a note at the beginning of any accrual period is equal to its issue price increased by the accrued OID for each prior accrual period determined without regard to the amortization of any acquisition or bond premium, as described below, and reduced by any cash payments made on such note on or before the first day of the accrual period.

If we in fact pay interest in cash on the notes, you will not be required to adjust your OID inclusions. Each payment made in cash under a note will be treated first as a payment of any accrued OID that has not been allocated to prior payments and second as a payment of principal. You generally will not be required to include separately in income cash payments received on the notes to the extent such payments constitute payments of previously accrued OID or payments of principal.

If, for any interest payment period, we exercise our option to pay interest in the form of PIK Interest, your OID calculation for future periods will be adjusted by treating the note as if it had been retired and then reissued for an amount equal to its adjusted issue price on the date preceding the first date of such interest payment period, and re-calculating the yield to maturity of the reissued note by treating the amount of PIK Interest (and of any prior PIK Interest) as a payment that will be made on the maturity date of such note.

The rules regarding OID are complex and the rules described above may not apply in all cases. Accordingly, you should consult your own tax advisors regarding their application.

***Market Discount***

If you purchase a note for an amount that is less than its adjusted issue price, the amount of the difference will be treated as market discount for U.S. federal income tax purposes, unless that difference is less than a specified de minimis amount. Under the market discount rules, you will be required to treat any principal payment on, or any gain on the sale, exchange, retirement or other disposition of, a note as ordinary income to the extent of the market discount that you have not previously included in income and are treated as having accrued on the note at the time of its payment or disposition.

In addition, you may be required to defer, until the maturity of the note or its earlier disposition in a taxable transaction, the deduction of all or a portion of the interest expense on any indebtedness attributable to the note. You may elect, on a note-by-note basis, to deduct the deferred interest expense in a tax year prior to the year of disposition. You should consult your own tax advisors before making this election.

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Any market discount will be considered to accrue ratably during the period from the date of acquisition to the maturity date of the note, unless you elect to accrue on a constant interest method. You may elect to include market discount in income currently as it accrues, on either a ratable or constant interest method, in which case the rule described above regarding deferral of interest deductions will not apply.

### ***Acquisition Premium, Amortizable Bond Premium***

If you purchase a note for an amount that is greater than its adjusted issue price but equal to or less than the sum of all amounts payable on the note after the purchase date, you will be considered to have purchased that note at an acquisition premium. Under the acquisition premium rules, the amount of OID that you must include in gross income with respect to the note for any taxable year will be reduced by the portion of the acquisition premium properly allocable to that year.

If you purchase a note for an amount in excess of the sum of all amounts payable on the note after the purchase date, you will be considered to have purchased the note at a premium and you will not be required to include any OID in income. You generally may elect to amortize the premium over the remaining term of the note on a constant yield method as an offset to interest when includible in income under your regular accounting method. If you do not elect to amortize bond premium, that premium will decrease the gain or increase the loss you would otherwise recognize on disposition of the note.

### ***Sale, Exchange, Retirement, or Other Taxable Disposition of Notes***

Subject to the discussion below regarding the Mandatory Principal Redemption, upon the sale, exchange, retirement, or other taxable disposition of a note (or a PIK Note), you generally will recognize gain or loss equal to the difference between the amount realized upon the sale, exchange, retirement, or other taxable disposition and the adjusted tax basis of the note (or the PIK Note). Your adjusted tax basis in a note will, in general, be your cost for the note, increased by OID or market discount previously included in income, and reduced by any amortized premium and cash payments on the note.

Although not free from doubt, your adjusted tax basis in a note should be allocated between the original note and any PIK Notes received in respect of PIK Interest thereon in proportion to their relative principal amounts. Your holding period in any PIK Note received in respect of PIK Interest would likely be identical to your holding period for the original note with respect to which the PIK Note was received.

Any gain or loss you recognize will be capital gain or loss and will be long-term capital gain or loss if at the time of sale, exchange, retirement or other disposition, the note has been held for more than one year. Capital gains of noncorporate U.S. holders (including individuals) derived with respect to capital assets held for more than one year are eligible for reduced rates of taxation. The deductibility of capital losses is subject to limitations.

Payments received by a U.S. holder upon the Mandatory Principal Redemption of a portion of a note will be treated as tax free payments of a portion of the then accrued OID with respect to such note in its entirety (including the portion of the note not redeemed).

### **Material Tax Consequences to Non-U.S. holders**

The following is a summary of material U.S. federal income and estate tax consequences that will apply to non-U.S. holders of the notes.

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***U.S. Federal Withholding Tax***

The 30% U.S. federal withholding tax will not apply to any payment of interest (which for purposes of this discussion includes OID) on the notes under the portfolio interest rule, provided that:

interest paid on the notes is not effectively connected with your conduct of a trade or business in the United States;

you do not actually (or constructively) own 10% or more of the total combined voting power of all classes of our voting stock within the meaning of the Code and applicable United States Treasury regulations;

you are not a controlled foreign corporation that is related to us actually or constructively through stock ownership;

you are not a bank whose receipt of interest on the notes is described in Section 881(c)(3)(A) of the Code; and

either (a) you provide your name and address on an IRS Form W-8BEN (or other applicable form), and certify, under penalties of perjury, that you are not a United States person as defined under the Code or (b) you hold your notes through certain foreign intermediaries and satisfy the certification requirements of applicable United States Treasury regulations. Special certification rules apply to non-U.S. holders that are pass-through entities rather than corporations or individuals.

If you cannot satisfy the requirements described above, payments of interest made to you will be subject to the 30% U.S. federal withholding tax, unless you provide us with a properly executed:

IRS Form W-8BEN (or other applicable form) certifying an exemption from or reduction in withholding under the benefit of an applicable income tax treaty; or

IRS Form W-8ECI (or other applicable form) certifying interest paid on the notes is not subject to withholding tax because it is effectively connected with your conduct of a trade or business in the United States (as discussed below under U.S. Federal Income Tax ).

The 30% U.S. federal withholding tax generally will not apply to any payment of principal or gain that you realize on the sale, exchange, retirement or other disposition of a note; provided, however, that payments received by a non-U.S. holder upon the Mandatory Principal Redemption of a portion of a note will be treated as payments of a portion of the then accrued OID with respect to such note in its entirety (including the portion of the note not redeemed) and therefore possibly subject to the 30% U.S. federal withholding tax.

***U.S. Federal Income Tax***

If you are engaged in a trade or business in the United States and interest (including OID) on the notes is effectively connected with the conduct of that trade or business (and, if required by an applicable income tax treaty, is attributable to a United States permanent establishment), then you will be subject to U.S. federal income tax on that interest (including OID) on a net income basis (although you will be exempt from the 30% U.S. federal withholding tax, provided the certification requirements discussed above in U.S. Federal Withholding Tax are satisfied) in generally the same manner as if you were a United States person as defined under the Code. In addition, if you are a foreign corporation, you may be subject to a branch profits tax equal to 30% (or lower applicable income tax treaty rate) of such interest (including OID), subject to adjustments.

Any gain realized on the disposition of a note generally will not be subject to U.S. federal income tax unless:

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the gain is effectively connected with your conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a United States permanent establishment); or

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you are an individual who is present in the United States for 183 days or more in the taxable year of that disposition, and certain other conditions are met.

***U.S. Federal Estate Tax***

Your estate will not be subject to U.S. federal estate tax on notes beneficially owned by you at the time of your death, provided that any payment to you on the notes would be eligible for exemption from the 30% U.S. federal withholding tax under the portfolio interest rule described above under U.S. Federal Withholding Tax without regard to the statement requirement described in the fifth bullet point of that section.

**Information Reporting and Backup Withholding**

***U.S. holders***

In general, information reporting requirements will apply to certain payments of principal and interest (including OID) paid on the notes and to the proceeds of the sale or other disposition of a note paid to you (unless you are an exempt recipient such as a corporation).

Backup withholding may apply to such payments if you fail to provide a taxpayer identification number or a certification that you are not subject to backup withholding. Backup withholding is not an additional tax and any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is timely furnished to the IRS.

***Non-U.S. holders***

Generally, we must report to the IRS and to you the amount of interest (including OID) paid to you and the amount of tax, if any, withheld with respect to those payments. Copies of the information returns reporting such interest payments and any withholding may also be made available to the tax authorities in the country in which you reside under the provisions of an applicable income tax treaty.

In general, you will not be subject to backup withholding with respect to payments of interest (including OID) on the notes that we make to you provided that we do not have actual knowledge or reason to know that you are a United States person as defined under the Code, and we have received from you the required certification that you are a non-U.S. holder described above in the fifth bullet point under Material Tax Consequences to Non-U.S. holders U.S. Federal Withholding Tax.

Information reporting and, depending on the circumstances, backup withholding will apply to the proceeds of a sale or other disposition (including a redemption) of notes within the United States or conducted through certain United States-related financial intermediaries, unless you certify to the payor under penalties of perjury that you are a non-U.S. holder (and the payor does not have actual knowledge or reason to know that you are a United States person as defined under the Code), or you otherwise establish an exemption.

Backup withholding is not an additional tax and any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is timely furnished to the IRS.

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**CERTAIN ERISA CONSIDERATIONS**

The following is a summary of certain considerations associated with the purchase of the notes and exchange notes by employee benefit plans that are subject to Title I of Employee Retirement Income Security Act of 1974, as amended ( ERISA ), plans, individual retirement accounts and other arrangements that are subject to Section 4975 of the Code or provisions under any federal, state, local, non-U.S. or other laws, rules or regulations that are similar to such provisions of ERISA or the Code (collectively, Similar Laws ), and entities whose underlying assets are considered to include plan assets of such plans, accounts and arrangements (each, a Plan ).

**General Fiduciary Matters**

ERISA and the Code impose certain duties on persons who are fiduciaries of a Plan subject to Title I of ERISA or Section 4975 of the Code (an ERISA Plan ) and prohibit certain transactions involving the assets of an ERISA Plan and its fiduciaries or other interested parties. Under ERISA and the Code, any person who exercises any discretionary authority or control over the administration of such an ERISA Plan or the management or disposition of the assets of such an ERISA Plan, or who renders investment advice for a fee or other compensation to such an ERISA Plan, is generally considered to be a fiduciary of the ERISA Plan.

In considering an investment in the notes of a portion of the assets of any Plan, a fiduciary should determine whether the investment is in accordance with the documents and instruments governing the Plan and the applicable provisions of ERISA, the Code or any Similar Law relating to a fiduciary's duties to the Plan including, without limitation, the prudence, diversification, delegation of control and prohibited transaction provisions of ERISA, the Code and any other applicable Similar Laws.

**Prohibited Transaction Issues**

Section 406 of ERISA and Section 4975 of the Code prohibit ERISA Plans from engaging in specified transactions involving plan assets with persons or entities who are parties in interest, within the meaning of ERISA, or disqualified persons, within the meaning of Section 4975 of the Code, unless an exemption is available. A party in interest or disqualified person who engages in a nonexempt prohibited transaction may be subject to excise taxes and other penalties and liabilities under ERISA and the Code. In addition, the fiduciary of the ERISA Plan that engages in such a nonexempt prohibited transaction may be subject to penalties and liabilities under ERISA and the Code. The acquisition and/or holding of notes by an ERISA Plan with respect to which we or the initial purchasers are considered a party in interest or disqualified person may constitute or result in a direct or indirect prohibited transaction under Section 406 of ERISA and/or Section 4975 of the Code, unless the investment is acquired and is held in accordance with an applicable statutory, class or individual prohibited transaction exemption. In this regard, the United States Department of Labor has issued prohibited transaction class exemptions ( PTCEs ) that may apply to the acquisition and holding of the notes. These class exemptions include, without limitation, PTCE 84-14 respecting transactions determined by independent qualified professional asset managers, PTCE 90-1, respecting insurance company pooled separate accounts, PTCE 91-38, respecting bank collective investment funds, PTCE 95-60, respecting life insurance company general accounts and PTCE 96-23, respecting transactions determined by in-house asset managers, although all of the conditions of any such exemptions may not be satisfied. Because of the foregoing, the notes should not be purchased or held by any person investing plan assets of any Plan, unless such purchase and holding (and the exchange of notes for exchange notes) will not constitute a non-exempt prohibited transaction under ERISA and the Code or similar violation of any applicable Similar Laws.

**Representation**

Accordingly, by acceptance of a note or an exchange note, each purchaser and subsequent transferee will be deemed to have represented and warranted that either (i) no portion of the assets used by such purchaser or

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transferee to acquire and hold the notes constitutes assets of any Plan or (ii) the purchase and holding of the notes (and the exchange of notes for exchange notes) by such purchaser or transferee will not constitute a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or similar violation under any applicable Similar Laws.

The foregoing discussion is general in nature and is not intended to be all-inclusive. Due to the complexity of these rules and the penalties that may be imposed upon persons involved in non-exempt prohibited transactions, it is particularly important that fiduciaries or other persons considering purchasing the notes (and holding the notes or exchange notes) on behalf of, or with the assets of, any Plan, consult with their counsel regarding the potential applicability of ERISA, Section 4975 of the Code and any Similar Laws to such transactions and whether an exemption would be applicable to the purchase and holding of the notes.



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**PLAN OF DISTRIBUTION**

Each broker-dealer that receives exchange notes for its own account pursuant to an exchange offer must acknowledge that it will deliver a prospectus in connection with any resale of such exchange notes. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of exchange notes received in exchange for outstanding notes where such outstanding notes were acquired as a result of market-making activities or other trading activities. In addition, all dealers effecting transactions in the exchange notes may be required to deliver a prospectus.

We will not receive any proceeds from any sale of exchange notes by broker-dealers. Exchange notes received by broker-dealers for their own account pursuant to an exchange offer may be sold from time to time in one or more transactions in the over-the-counter market, in negotiated transactions, through the writing of options on the exchange notes or a combination of such methods of resale, at market prices prevailing at the time of resale, at prices related to such prevailing market prices or at negotiated prices. Any such resale may be made directly to purchasers or through brokers or dealers who may receive compensation in the form of commissions or concessions from any such broker-dealer and/or the purchasers of any such exchange notes. Any broker-dealer that resells exchange notes that were received by it for its own account pursuant to an exchange offer and any broker or dealer that participates in a distribution of such exchange notes may be deemed to be an underwriter within the meaning of the Securities Act and any profit of any such resale of exchange notes and any commission or concessions received by any such persons may be deemed to be underwriting compensation under the Securities Act. The letter of transmittal states that, by acknowledging that it will deliver and by delivering a prospectus, a broker-dealer will not be deemed to admit that it is an underwriter within the meaning of the Securities Act.

We have agreed to pay all expenses incident to the exchange offer other than commissions or concessions of any broker-dealers and will indemnify you (including any broker-dealers) against certain liabilities, including liabilities under the Securities Act.

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### **LEGAL MATTERS**

Certain legal matters in connection with the offering will be passed upon for us by Simpson Thacher & Bartlett LLP, Palo Alto, California. In rendering its opinion, Simpson Thacher & Bartlett LLP relied upon the opinions of Akerman Senterfitt as to all matters governed by the laws of Florida, and Andrews Kurth LLP as to all matters governed by the laws of Texas.

### **EXPERTS**

The consolidated financial statements of Goodman Global, Inc., our predecessor, at December 31, 2007 and 2006 and for each of the three years in the period ended December 31, 2007, appearing in this Prospectus and Registration Statement, have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report thereon appearing elsewhere herein, and are included in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

Ernst & Young LLP (E&Y) has a business relationship with a company other than Goodman that is also controlled by affiliates of Hellman & Friedman, the majority stockholder of Goodman Global, Inc. The other company provides expert services to E&Y in connection with E&Y's defense of certain professional liability litigation matters. E&Y is not the auditor of the other company, and does not believe the services provided, or the amounts paid therefore, are material to either the other company or E&Y. This relationship does not involve Goodman Global, Inc. nor have any impact on its consolidated financial statements. The audit committee of Goodman Global, Inc.'s board of directors and E&Y have separately considered the impact that this relationship may have had on E&Y's independence with respect to Goodman Global, Inc. Both the audit committee of Goodman Global, Inc.'s board of directors and E&Y have concluded that this relationship with the other company does not impact E&Y's independence. In making this determination, both the audit committee of Goodman Global, Inc.'s board of directors and E&Y considered, among other things, the immaterial, indirect nature of the relationship as it relates to Goodman Global, Inc.

### **WHERE YOU CAN FIND MORE INFORMATION**

We and our guarantor subsidiaries have filed with the SEC a registration statement on Form S-4 under the Securities Act with respect to the exchange notes. This prospectus, which forms a part of the registration statement, does not contain all of the information set forth in the registration statement. For further information with respect to us, our guarantor subsidiaries and the exchange notes, reference is made to the registration statement. Statements contained in this prospectus as to the contents of any contract or other document are not necessarily complete. We and our guarantor subsidiaries are not currently subject to the informational requirements of the Exchange Act. Prior to consummation of the Transactions, Goodman Global, Inc. had historically been subject to, and as a result of the offering of the exchange notes, we and our guarantor subsidiaries will become subject to the informational requirements of the Exchange Act, and, in accordance therewith, will file reports and other information with the SEC. The registration statements, such reports and other information can be inspected and copied at the Public Reference Room of the SEC located at Room 1580, 100 F Street, N.E., Washington D.C. 20549. Copies of such materials, including copies of all or any portion of the registration statement, can be obtained from the Public Reference Room of the SEC at prescribed rates. You can call the SEC at 1-800-SEC-0330 to obtain information on the operation of the Public Reference Room. Such materials may also be accessed electronically by means of the SEC's home page on the Internet (<http://www.sec.gov>). Until we recommence filing such reports and other information with the SEC, we will furnish to holders of outstanding notes and prospective purchasers thereof the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act in order to permit compliance with Rule 144A in connection with resales of such notes.

So long as we and our guarantor subsidiaries are subject to the periodic reporting requirements of the Exchange Act, we and our guarantor subsidiaries are required to furnish the information required to be filed with

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the SEC to the trustee and the holders of the outstanding notes. We and our guarantor subsidiaries have agreed that, even if we are not required under the Exchange Act to furnish such information to the SEC, we will nonetheless continue to furnish information that would be required to be furnished by us and our guarantor subsidiaries by Section 13 of the Exchange Act, including a Management's Discussion and Analysis of Financial Condition and Results of Operations and, with respect to the annual information only, a report thereon by their certified independent accountants to the trustee and the holders of the outstanding notes or exchange notes as if we were subject to such periodic reporting requirements. However, our reporting obligations under the indenture are not identical to the reporting obligations that we would have if we were subject to Section 13 or 15(d) of the Exchange Act. Among other differences, the indenture permits us to meet these periodic filing and information requirements within time frames that may be longer than those to which we would be subject if we were subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act. See Description of Notes Certain Covenants Reports and Other Information.

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**Table of Contents****GOODMAN GLOBAL, INC.****CONSOLIDATED CONDENSED BALANCE SHEETS**

	<b>Successor March 31, 2008 (unaudited, in thousands)</b>	<b>Predecessor December 31, 2007</b>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 15,907	\$ 18,955
Restricted cash	2,700	2,600
Accounts receivable, net of allowance for doubtful accounts (\$5.5 million at March 31, 2008 and \$7.0 million at December 31, 2007)	210,206	217,035
Inventories	318,229	277,723
Deferred tax assets	17,961	41,062
Other current assets	93,560	18,246
<b>Total current assets</b>	<b>658,563</b>	<b>575,621</b>
Property, plant, and equipment, net	190,110	159,395
Goodwill	1,399,204	391,287
Identifiable intangibles	782,313	398,707
Deferred tax assets	28,059	28,059
Deferred financing costs	43,200	14,548
<b>Total assets</b>	<b>\$ 3,073,390</b>	<b>\$ 1,567,617</b>
<b>Liabilities and shareholders' equity</b>		
Current liabilities:		
Trade accounts payable	\$ 112,470	\$ 104,438
Accrued warranty	37,937	39,669
Other accrued expenses	70,389	92,040
Current portion of long-term debt	11,600	3,500
<b>Total current liabilities</b>	<b>232,396</b>	<b>239,647</b>
Long-term debt, less current portion	1,366,021	651,925
Deferred tax liabilities	151,634	151,634
Other long-term liabilities	58,518	53,939
Common stock, par value of \$.01, 275,000,000 shares authorized, 68,938,590 issued and outstanding as of December 31, 2007		689
Common stock, par value of \$.01, 1,000 shares authorized, 10 shares issued and outstanding as of March 31, 2008		
Accumulated other comprehensive income	3,116	337
Additional paid-in capital	1,278,895	466,056
Retained earnings (deficit)	(17,190)	155,024
<b>Total shareholders' equity</b>	<b>1,264,821</b>	<b>622,106</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 3,073,390</b>	<b>\$ 1,567,617</b>

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



**Table of Contents****GOODMAN GLOBAL, INC.****CONSOLIDATED CONDENSED STATEMENTS OF INCOME**

	Successor	Predecessor	Predecessor Three Months
	February 14 to March 31, 2008	January 1 to February 13, 2008	Ended March 31, 2007
	(unaudited, in thousands)		
Sales, net	\$ 217,730	\$ 147,137	\$ 380,274
Costs and expenses:			
Cost of goods sold	189,701	115,714	303,262
Selling, general, and administrative expenses	27,292	22,677	45,926
Acquisition-related expenses		42,939	
Depreciation expense	4,204	2,791	6,095
Amortization expense	2,687	1,044	2,216
Operating (loss) profit	(6,154)	(38,028)	22,775
Interest expense	20,503	56,176	16,907
Other income	(140)	(347)	(1,127)
Earnings (losses) before taxes	(26,517)	(93,857)	6,995
Provision for (benefit from) income taxes	(9,327)	(27,815)	2,364
Net income (loss)	\$ (17,190)	\$ (66,042)	\$ 4,631

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

**Table of Contents****GOODMAN GLOBAL, INC.****CONSOLIDATED CONDENSED STATEMENTS OF SHAREHOLDERS EQUITY**

	<b>Common Stock</b>	<b>Additional Paid-In Capital</b>	<b>Retained Earnings (Deficit) (unaudited, in thousands)</b>	<b>Accumulated Other Comprehensive Income (Loss)</b>	<b>Total</b>
<b>Predecessor</b>					
Balance at December 31, 2007	\$ 689	\$ 466,056	\$ 155,024	\$ 337	\$ 622,106
Net loss			(66,042)		(66,042)
Foreign currency translation				(41)	(41)
Change in fair value of derivatives, net of tax				9,099	9,099
Comprehensive loss					(56,984)
Accrued stock options		31,510			31,510
Balance at February 13, 2008	\$ 689	\$ 497,566	\$ 88,982	\$ 9,395	\$ 596,632
<b>Successor</b>					
Balance at February 14, 2008	\$	\$	\$	\$	\$
Net loss			(17,190)		(17,190)
Foreign currency translation				(602)	(602)
Change in fair value of derivatives, net of tax				3,718	3,718
Comprehensive loss					(14,074)
Equity Contribution		1,278,247			1,278,247
Accrued stock options		648			648
Balance at March 31, 2008	\$	\$ 1,278,895	\$ (17,190)	\$ 3,116	\$ 1,264,821

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



**Table of Contents****GOODMAN GLOBAL, INC.****CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS**

	Successor	Predecessor	Predecessor Three Months
	February 14 to March 31, 2008	January 1 to February 13, 2008	Ended March 31, 2007
	(unaudited, in thousands)		
<b>Operating activities</b>			
Net income (loss)	\$ (17,190)	\$ (66,042)	\$ 4,631
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:			
Depreciation	4,204	2,791	6,095
Amortization	2,687	1,044	2,216
Allowance for bad debt	(484)	(1,019)	(1,147)
Deferred tax provision	(8,629)	(3,908)	213
Gain on disposal of assets	(93)	(42)	(717)
Amortization of inventory step-up in basis	23,996		
Compensation expense related to stock options	648	6,240	483
Amortization of deferred financing costs	1,322	14,548	1,107
Amortization of original issue discount	1,021		
Changes in operating assets and liabilities, net of effects of acquisition:			
Accounts receivable	(5,773)	14,105	(31,351)
Inventories	7,598	(36,053)	(3,049)
Other assets	(2,995)	(54,700)	(670)
Accounts payable and accrued expenses	(4,892)	80,347	24,614
Net cash provided by (used in) operating activities	\$ 1,420	\$ (42,689)	\$ 2,425
<b>Investing activities</b>			
Purchases of property, plant, and equipment	(1,569)	(3,409)	(10,282)
Proceeds from the sale of property, plant, and equipment	5	1	5,273
Change in restricted cash		(100)	
Acquisition, net of assumed debt	(1,940,565)		
Net cash used in investing activities	\$ (1,942,129)	\$ (3,508)	\$ (5,009)
<b>Financing activities</b>			
Proceeds from long-term debt, net of original issue discount	1,373,000		
Repayments of long-term debt	(655,425)		(875)
Net borrowing (payments) under revolving line facility	3,600	11,500	
Equity contribution	1,278,247		
Equity issuance costs	(7,713)	(99)	
Deferred finance costs	(44,522)		
Excess tax benefit from exercise of options		25,270	
Net cash provided by (used in) financing activities	\$ 1,947,187	\$ 36,671	\$ (875)
Net increase (decrease) in cash	6,478	(9,526)	(3,459)
Cash at beginning of period	9,429	18,955	11,569
Cash at end of period	\$ 15,907	\$ 9,429	\$ 8,110

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### Supplementary disclosures of cash flow information:

Cash paid during the period for:

Interest	\$	8,087	\$	43,547	\$	3,912
Income taxes	\$	449	\$	402	\$	1,279
Non-cash item: Accrual for purchases of property, plant and equipment	\$	145	\$	425	\$	326

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

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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS**

**Three Months Ended March 31, 2008**

**(Unaudited)**

**1. Basis of Presentation**

The accompanying unaudited consolidated condensed financial statements of Goodman Global, Inc. (the Company), have been prepared in accordance with Rule 10-01 of Regulation S-X for interim financial statements required to be filed with the Securities and Exchange Commission and do not include all information and footnotes required by generally accepted accounting principles in the United States for complete financial statements. However, the information furnished herein reflects all normal recurring adjustments, which are, in the opinion of management, necessary for a fair statement of the results for the interim periods. The results of operations for the three months ended March 31, 2008 are not necessarily indicative of the results that may be expected for a full year. Although there is demand for the Company's products throughout the year, in each of the past three years approximately 56% to 58% of total sales occurred in the second and third quarters of the fiscal year. The Company's peak production occurs in the first and the second quarters in anticipation of peak sales quarters.

The preparation of consolidated financial statements in accordance with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported. Actual results could differ from those estimated. Certain information and footnote disclosures normally included in the financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission. These consolidated condensed financial statements should be read in conjunction with the consolidated financial statements thereto for the year ended December 31, 2007.

The Company follows Statement of Financial Accounting Standards (SFAS) No. 131, *Disclosures about Segments of an Enterprise and Related Information*. As the Company's consolidated financial information is reviewed by the chief decision makers, and the business is managed under one operating and marketing strategy, the Company operates under one reportable segment. Long-lived assets outside the United States have not been significant.

In order to capitalize on the long term growth prospects of the business, on October 21, 2007, Chill Holdings, Inc. (Parent), Chill Acquisition, Inc., a subsidiary of Parent (which we refer to as Merger Sub), and Goodman Global, Inc. entered into an agreement and plan of merger (the Merger Agreement) pursuant to which Merger Sub merged with and into Goodman Global, Inc. on February 13, 2008 (the 2008 Acquisition). Merger Sub was incorporated on October 15, 2007 for the purpose of acquiring Goodman Global, Inc. and did not have any operations prior to February 13, 2008 other than in connection with the 2008 Acquisition. Chill Holdings, Inc., our Parent, is controlled by investment funds affiliated with Hellman & Friedman LLC, and other stockholders include investment funds affiliated with GSO, Farallon Capital Partners and AlpInvest Partners, along with certain other investors that GSO syndicated their investments to, as well as certain members of management. The acquisition was financed through these entities contributing a total of \$1,278.2 million to Parent in connection with the 2008 Acquisition along with the net proceeds of a private placement of \$500.0 million aggregate principal amount of 13.50%/14.00% senior subordinated notes due 2016 (wholly and unconditionally guaranteed by each subsidiary guarantor), \$800.0 million in connection with the senior secured term credit agreement, and \$105.0 million in connection with the asset-based revolving credit agreement, totaling \$1,373.0 million.

On February 13, 2008, each share of the Company's common stock issued and outstanding immediately prior to the effective time of the 2008 Acquisition was converted into the right to receive \$25.60 in cash. In addition, all outstanding options to acquire Goodman common stock issued pursuant to Goodman's equity plans, whether or not vested, became fully vested as of the time immediately prior to the 2008 Acquisition and were cancelled and converted into cash payments.

The financial statements for the three months ended March 31, 2008, have been presented to reflect the Company prior to the 2008 Acquisition (Predecessor) and subsequent to the 2008 Acquisition (Successor).

**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)****Three Months Ended March 31, 2008****(Unaudited)****2. Significant Accounting Policies and Balance Sheet Accounts****Restricted Cash and Cash Equivalents**

Cash equivalents represent short-term investments with an original maturity of three months or less. At March 31, 2008 and December 31, 2007, the restricted cash pertains to the Company's extended warranty program.

**Inventories**

Inventory costs include material, labor, depreciation, logistics, and plant overhead. The Company's inventory is stated at the lower of cost or market using the first-in, first-out (FIFO) method. As of the 2008 Acquisition, the Company's inventory was increased by \$48.0 million to reflect fair market value. During the first quarter of 2008, \$24.0 million of this step up was amortized and the remaining fair market value step-up was \$24.0 million as of March 31, 2008.

Inventories consist of the following (in thousands):

	<b>Successor March 31, 2008</b>	<b>Predecessor December 31, 2007</b>
Raw materials and parts	\$ 34,878	\$ 29,958
Finished goods	283,351	247,765
<b>Total inventories</b>	<b>\$ 318,229</b>	<b>\$ 277,723</b>

A rollforward of inventory reserves consists of the following (in thousands):

	<b>Successor February 14 to March 31, 2008</b>	<b>Predecessor January 1 to February 13, 2008</b>	<b>Predecessor Twelve Months Ended December 31, 2007</b>
At the beginning of the period	\$ 4,802	\$ 4,735	\$ 4,568
Current-period accruals	325	164	3,261
Current-period uses	(87)	(97)	(3,094)
At the end of the period	\$ 5,040	\$ 4,802	\$ 4,735

**Property, Plant, and Equipment**

Property, plant, and equipment are stated at cost less accumulated depreciation. As a result of the 2008 Transaction, the Company's property, plant, and equipment has been increased by \$34.2 million to reflect fair market value. Expenditures for renewals and betterments are capitalized

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and expenditures for repairs and maintenance are charged to expense as incurred. Buildings are depreciated using the straight-line method over the estimated useful lives of the assets, which is 39 years. Equipment is depreciated on a straight-line basis over the assets' remaining useful lives.

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**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)****Three Months Ended March 31, 2008****(Unaudited)**

Property, plant and equipment consist of the following (in thousands):

	Useful Lives in Years	Successor March 31, 2008	Predecessor December 31, 2007
Land		\$ 14,707	\$ 9,291
Buildings and improvements	10-39	50,353	50,827
Equipment	3-10	121,571	156,861
Construction-in-progress		7,683	6,904
		194,314	223,883
Less: Accumulated depreciation		(4,204)	(64,488)
<b>Total property, plant and equipment</b>		<b>\$ 190,110</b>	<b>\$ 159,395</b>

**Deferred financing costs**

Debt issuance costs are capitalized and amortized to interest expense using the effective interest method over the period the related debt is anticipated to be outstanding. As a result of the 2008 Acquisition and the related extinguishment of Predecessor's outstanding debt, Predecessor recognized an additional charge of \$14.2 million in interest expense in the period ended February 13, 2008 related to the write off of the remaining deferred financing costs. In connection with the 2008 Acquisition and new debt structure, we incurred deferred financing cost of \$44.5 million.

**Identifiable Intangible Assets**

The values assigned to amortizable intangible assets are amortized to expense over their estimated useful lives and are reviewed for potential impairment. The estimated useful lives are based on an evaluation of the circumstances surrounding each asset, including an evaluation of events that may have occurred that would cause the useful life to be decreased. In the event the useful life would be considered to be shortened, or if the asset's future value were deemed to be impaired, an appropriate amount would be charged to amortization expense. Future operating results and residual values could therefore reasonably differ from our current estimates and could require a provision for impairment in a future period. Indefinite lived intangible assets are reviewed in accordance with SFAS No. 142, Goodwill and Other Intangibles by comparison of the fair market value with its carrying amount.

The values assigned to our identifiable intangible assets were determined using the income approach, whereby the fair value of an asset is based on the present value of its estimated future economic benefits. This approach was considered appropriate, as the inherent value of these intangible assets is their ability to generate current and future cash flows. The key assumption in using this approach is the identification of the revenue streams attributable to these assets based on budgeted future revenues. Amounts allocated to the identifiable intangibles are amortized on a straight-line basis over their estimated useful lives with no residual value as follows:

Customer Relationships	40 years
Trade Names - Amana	15 years

Trade Names	Other	Indefinite
Technology		10 years

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**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)****Three Months Ended March 31, 2008****(Unaudited)**

Identifiable intangible assets as of March 31, 2008 consist of the following (in thousands):

	Gross	Accumulated Amortization	Net
Intangible assets subject to amortization:			
Customer relationships	\$ 530,000	\$ (1,787)	\$ 528,213
Trade names Amana	40,000	(360)	39,640
Technology	40,000	(540)	39,460
Total intangible assets subject to amortization	610,000	(2,687)	607,313
Total indefinite-lived trade names	175,000		175,000
Total identifiable intangible assets	\$ 785,000	\$ (2,687)	\$ 782,313

As a result of the 2008 Acquisition Predecessor's intangible assets were eliminated at the date of acquisition. Predecessor recognized amortization expense related to these intangibles of \$1.0 million in the period ended February 13, 2008 prior to their elimination.

The amortization related to the amortizable intangibles assets for Successor in the aggregate will be approximately \$20.0 million per year over the next five years.

**Accrued Warranty**

A rollforward of the liabilities for warranties consists of the following (in thousands):

	Successor February 14 to March 31, 2008	Predecessor January 1 to February 13, 2008	Predecessor Twelve Months Ended December 31, 2007
At the beginning of the period	\$ 38,567	\$ 39,669	\$ 41,773
Current-period accruals	4,484	3,542	40,801
Current-period uses	(5,114)	(4,644)	(42,905)
At the end of the period	\$ 37,937	\$ 38,567	\$ 39,669

**Other Accrued Expenses**

Other accrued expenses consist of the following significant items (in thousands):



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	<b>Successor March 31, 2008</b>	<b>Predecessor December 31, 2007</b>
Accrued rebates	\$ 18,814	\$ 33,710
Accrued self insurance reserves	13,261	13,636
Interest	10,091	1,792
Other	28,223	42,902
<b>Total accrued expenses</b>	<b>\$ 70,389</b>	<b>\$ 92,040</b>

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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)**

**Three Months Ended March 31, 2008**

**(Unaudited)**

**New Accounting Pronouncements**

Effective January 1, 2008, the Company adopted Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* ( SFAS No. 157 ), which establishes a framework for measuring fair value in generally accepted accounting principles, clarifies the definition of fair value within that framework, and expands disclosures about the use of fair value measurements. SFAS No. 157 is effective for fiscal years beginning after November 15, 2007. However, in February 2008, the Financial Accounting Standards Board ( FASB ) issued FASB Staff Position No. FA5 157-2, *Effective Date of FASB Statement No. 157* ( FSP No. 157-2 ), which deferred the effective date of SFAS No. 157 for one year for non-financial assets and liabilities, except for certain items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Company is currently evaluating the impact of SFAS No. 157 on its Consolidated Financial Statements for items within the scope of FSP No. 157-2, which will become effective on January 1, 2009.

Effective January 1, 2008, the Company also adopted Statement of Financial Accounting Standards No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities* ( SFAS No. 159 ). SFAS No. 159 allows an entity the irrevocable option to elect fair value for the initial and subsequent measurement for certain financial assets and liabilities on a contract-by-contract basis. As the Company has not elected the fair value option for any of its assets or liabilities, the adoption of SFAS No. 159 had no impact on the Company's Consolidated Financial Statements.

**3. Business Combinations**

The 2008 Acquisition is being accounted for under the purchase method of accounting. The Company estimated the fair value of the acquired assets and liabilities using several generally accepted valuation techniques. Trade names, customer relationships, and technology were valued using the income approach, whereby the fair value of an asset is based on the present value of its estimated future economic benefit. Tangible assets were valued using the cost approach, or if a ready market for similar assets could be identified and relied upon, the market approach. The cost approach measures fair market value as the cost to construct or replace the asset with another asset of like utility. The market approach established fair market based on recent sales of comparable property. The trade names consist primarily of the Goodman and Amana trade names.

The excess of the cost of the 2008 Acquisition over the fair value of the net assets acquired is recorded as goodwill. The goodwill recorded is the result of the ability to earn a higher rate of return from the acquired business than would be expected if the assets had to be acquired or developed separately. The increase in basis of the assets will result in non-cash charges in future periods, principally related to the step-up in the value of inventory, property, plant and equipment and intangible assets. The acquirer incurred cost of \$7.7 million which are included in goodwill related to the 2008 Acquisition. The incremental goodwill as a result of the 2008 Acquisition will not be deductible for federal income tax purposes.

**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)****Three Months Ended March 31, 2008****(Unaudited)**

The initial purchase price allocation made by the Company is preliminary as certain appraisals need to be finalized and subject to change for a period of one year following the 2008 Acquisition. The following table summarizes the estimated fair values of the assets and liabilities as of February 13, 2008, the date of the 2008 Acquisition (in thousands):

Current assets	\$ 657,133
Property, plant & equipment	192,722
Deferred financing costs	44,522
Deferred taxes	22,091
Intangible assets	785,000
Goodwill	1,399,204
<b>Total Assets Acquired</b>	<b>\$ 3,100,672</b>
Current liabilities	226,630
Other liabilities	55,307
Deferred taxes	167,488
Debt	1,373,000
<b>Total Liabilities Assumed</b>	<b>\$ 1,822,425</b>
<b>Net Assets Acquired</b>	<b>\$ 1,278,247</b>

Unaudited proforma operating results of the Company giving effect to the 2008 Acquisition on January 1, 2008 and January 1, 2007, respectively, is summarized as follows (in thousands).

	<b>Successor March 31, 2008</b>	<b>Predecessor March 31, 2007</b>
Sales	\$ 364,867	\$ 380,274
Net loss	\$ (51,280)	\$ (43,514)

**4. Stock Compensation Plans**

All outstanding options to acquire Goodman common stock issued pursuant to Predecessor's equity plans, whether or not vested, became fully vested as of the time immediately prior to the 2008 Acquisition and were cancelled and converted into cash payments, without interest, equal to the product of (1) the number of shares of Goodman Global, Inc. common stock subject to each option as of the effective time of the 2008 Acquisition multiplied by (2) the excess, if any, of \$25.60 over the exercise price per share of common stock subject to such option. As a result of the transaction, 1.7 million options vested and thus the Company recognized stock option expense of \$6.3 million (\$4.0 million after tax) during the period January 1, 2008 to February 12, 2008. During the three months ended March 31, 2007, the Company recognized compensation expense of \$0.5 million (\$0.3 million after tax).

On February 13, 2008, the Board of Directors of the Parent adopted the 2008 Plan. The 2008 Plan is a comprehensive incentive compensation plan which permits the Company to grant equity-based compensation awards to employees and consultants of the Parent and its subsidiaries. Awards under the 2008 Plan may be in the form of stock options (either incentive stock options or non-qualified stock options) or other

stock-based awards, including restricted stock purchase awards, restricted stock units and stock appreciation rights. The

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## GOODMAN GLOBAL, INC.

## NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)

Three Months Ended March 31, 2008

(Unaudited)

maximum number of shares reserved for the grant or settlement of awards under the 2008 Plan is 6,734,923 shares of Parent, subject to adjustment in the event of an extraordinary dividend or other distribution, recapitalization, stock split, reorganization, merger, consolidation, spin-off, combination, repurchase or share exchange or other similar corporate transaction. Any shares subject to awards which are cancelled, forfeited, reacquired or repurchased before vesting under the 2008 Plan will again be available for grants under the 2008 Plan. In the event of a change in control, Parent's Compensation Committee will have the discretion to accelerate all outstanding awards, cancel awards for fair value, provide for the issuance of substitute awards and/or provide award holders an opportunity to exercise their awards prior to the occurrence of the change in control transaction.

As of March 31, 2008, the Company issued 4.2 million stock options under the 2008 Plan with an exercise price of \$10 per share and a weighted average fair market value at the date of grant of \$3.44 per share. There was no other activity related to the 2008 Plan and all issued shares remain unvested for the period February 13, 2008 through March 31, 2008. A portion of the options issued under the 2008 Plan vest based on time in installments through 2012, and a portion vest based on specified EBITDA targets in installments through 2012. It is the Company's belief that such EBITDA targets will be attained.

The Company accounts for its stock options under the fair value recognition provisions of SFAS No. 123(R), *Share-Based Payment*. The Company recognized compensation expense of \$0.6 million (\$0.4 million after tax) during the period ended March 31, 2008, subsequent to the 2008 Acquisition, which is included in selling, general and administrative expenses in the accompanying statements of income.

The fair value of each option award is estimated on the date of grant using the Black-Scholes-Merton model using assumptions discussed below. The expected volatility of 30% at the grant date was based mainly on the volatility of the Company's competitors. The expected term of the options granted of 8 years is based on the time period the options are expected to be outstanding. The risk-free interest rate of between 3.7% and 3.9% is based on the U.S. Treasury rate of a note with the expected maturity of the expected term of the options. The Company has not considered a dividend payment in its calculation and believes that forfeitures will not be significant.

As of March 31, 2008, the total compensation cost related to nonvested awards not yet recognized in the Company's statements of income is \$14.0 million. This amount will be recognized on a weighted average period of 3.9 years.

**5. Comprehensive Income (Loss)**

Other comprehensive income consists of the following (in thousands):

	Successor	Predecessor	Predecessor
	February 14 to March 31, 2008	January 1 to February 13, 2008	Three Months Ended March 31, 2007
Net income (loss)	\$ (17,190)	\$ (66,042)	\$ 4,631
Change in fair value of derivatives, net of tax	3,718	9,099	1,128
Foreign currency translation adjustment	(602)	(41)	105
Other comprehensive income (loss)	\$ (14,074)	\$ (56,984)	\$ 5,864



**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)****Three Months Ended March 31, 2008****(Unaudited)**

Accumulated other comprehensive income (loss) consists of the following (in thousands):

	<b>Defined Benefit Plans</b>	<b>Change in Fair Value of Derivatives</b>	<b>Foreign Currency Translation</b>	<b>Total</b>
<b>Predecessor</b>				
December 31, 2007	\$ (771)	\$ (2,242)	\$ 3,350	\$ 337
Net change through February 13, 2008		9,099	(41)	9,058
Accumulated other comprehensive income (loss) February 13, 2008	\$ (771)	\$ 6,857	\$ 3,309	\$ 9,395
<b>Successor</b>				
February 14, 2008	\$	\$	\$	\$
Net change through March 31, 2008		3,718	(602)	3,116
Accumulated other comprehensive income (loss) March 31, 2008	\$	\$ 3,718	\$ (602)	\$ 3,116

**6. Long-Term Debt**

Long-term debt consists of the following (in thousands):

	<b>Successor March 31, 2008</b>	<b>Predecessor December 31, 2007</b>
Senior Floating Rate Notes	\$	\$ 179,300
Senior Subordinated Notes		400,000
Term credit facility		76,125
Senior Subordinated Notes	500,000	
Term credit facility	800,000	
Revolving credit facility	105,000	
Swing Note	3,600	
Original Issue Discount	(30,979)	
Current maturities	(11,600)	(3,500)
Total long-term debt (including revolving credit facility), net of original issue discount, less current maturities	\$ 1,366,021	\$ 651,925

On January 10, 2008, we commenced cash tender offers to purchase Goodman Global Holdings, Inc.'s outstanding 7-7/8% Senior Subordinated Notes due 2010 (\$400 million aggregate principal amount outstanding) and Floating Rate Notes due 2010 (\$179.3 million aggregate principal amount outstanding) (together, the Existing Notes). On January 25, 2008, we executed the proposed amendments to the indentures for the

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Existing Notes, which amendments became operative immediately prior to the 2008 Acquisition. On February 13, 2008, we accepted the tenders, the Successor made payment to holders of the Existing Notes of the tender offer consideration and consent payments, called for redemption, deposited the redemption payment with the trustee in respect of untendered Existing Notes and discharged the indentures governing the Existing Notes.

In addition, on February 13, 2008, the Successor repaid the \$76.1 million outstanding under our then-existing term credit facility and \$11.5 million outstanding under our then-existing Revolving Credit Facility.

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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)**

**Three Months Ended March 31, 2008**

**(Unaudited)**

As a result of the extinguishment of the Predecessor company debt, the Company incurred prepayment penalties of \$35.6 million which are included in interest expense in the period ended February 13, 2008.

On February 13, 2008, Merger Sub issued and sold \$500.0 million of 13.50%/14.00% senior subordinated notes due 2016, wholly and unconditionally guaranteed by each subsidiary guarantor, and borrowed (1) \$800.0 million under a new senior secured term credit agreement due 2013 with Barclays Capital and Calyon New York Branch, as joint lead arrangers, Barclays Capital, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, General Electric Capital Corporation, as administrative agent and collateral agent, and the lenders from time to time party thereto, and (2) \$105.0 million due 2013 under a new asset-based revolving credit agreement with Barclays Capital and General Electric Capital Corporation, as joint lead arrangers, Barclays Capital, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, General Electric Capital Corporation, as administrative agent and collateral agent, General Electric Capital Corporation, as letter of credit issuer, and the lenders from time to time party thereto. The term credit agreement has an interest rate of LIBOR, or a minimum of 3.25%, plus 4.25%. This rate was 7.5% as of March 31, 2008. The revolving credit facility has an interest rate of LIBOR, or a minimum of 3.25%, plus 2.0%. The interest rate was 5.25% as of March 31, 2008. The term credit agreement is net of \$32 million of an original issue discount that is being amortized to interest expense using the effective interest method over the period the debt is anticipated to be outstanding.

The Company had unused revolving credit under the revolving credit facility of \$ 156.4 million at March 31, 2008. Outstanding commercial and standby letters of credit issued under the credit facility totaled \$35.0 million as of March 31, 2008.

Under a registration rights agreement, if Goodman Global, Inc. fails to obtain effectiveness of the exchange offer registration statement on or prior to 270 days after the issue date of the outstanding notes, or complete the exchange offer within 30 business days of its effectiveness (other than in the event the Company files a shelf registration statement), or if the shelf registration statement, if required thereby, is not declared effective, on or prior to 480 days after the issue date of the outstanding notes or if the shelf registration statement ceases to be effective at any time prior to the one year anniversary of its initial effectiveness, the interest rate on the outstanding notes will be increased by (x) 0.25% per annum for the first 90-day period immediately following the target registration date and (y) an additional 0.25% per annum with respect to each subsequent 90-day period, in each case, until the exchange offer is completed or the shelf registration statement, if required, is declared effective by the SEC or the outstanding notes cease to constitute transfer restricted notes, up to a maximum of 1.00% per annum of additional interest. The maximum annual interest expense related to the failure to obtain effectiveness of the exchange offer registration statement would be \$5.0 million.

The 2008 Acquisition, the repurchase of the Existing Notes, the repayment of the existing term credit facility and Revolving Credit Facility and the fees and expenses relating to the 2008 Acquisition and related transactions were financed by borrowings under the Company's new senior secured term credit agreement, the Company's new asset-based revolving credit agreement, the issuance of the notes, the equity investments and participations described above and Predecessor's cash on hand at the closing of the 2008 Acquisition.

All of the existing and future restricted U.S. subsidiaries of the Company (other than AsureCare Corp., a Florida corporation) guarantee its debt obligations. The Company is structured as a holding company and substantially all of its assets and operations are held by its subsidiaries. There are currently no significant restrictions on the ability of the Company to obtain funds from its subsidiaries by dividend or loan. The Company's and the non-guarantor subsidiaries' independent assets, revenues, income before taxes, and operating

**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)****Three Months Ended March 31, 2008****(Unaudited)**

cash flows in total are less than 3% of the consolidated total. The separate financial statements of the guarantors are not included herein because (i) the subsidiary guarantors of Goodman Global, Inc. have fully and unconditionally, jointly and severally guaranteed the obligations, and (ii) the aggregate assets, liabilities, earnings, and equity of the subsidiary guarantors is substantially equivalent to the assets, liabilities, earnings, and equity of the Company on a consolidated basis. As a result, the presentation of separate financial statements and other disclosures concerning the subsidiary guarantors is not deemed material.

**7. Derivatives**

During the first quarter of 2005, the Company entered into interest rate swaps with notional amounts of \$250.0 million, which expire in 2007 and 2008, to manage variable rate exposure on the floating rate debt. During the first quarter of 2007, the interest rate swap with a notional amount of \$150.0 million matured based on its terms. During the first quarter of 2008, the interest rate swap with a notional amount of \$100.0 million matured based on its terms. These interest rate derivative instruments were designated as cash flow hedges. For qualifying hedges, SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*, allows changes in the fair market value of these hedged instruments to be reported in accumulated other comprehensive income. The Company assessed the effectiveness of the transactions that received hedge accounting treatment. Any ineffectiveness, which generally arises from minor differences between the terms of the swap and terms of the underlying hedged debt, was recorded in other income, net in the statement of income. Any such differences for the three months ended March 31, 2007 were immaterial.

During the third quarter of 2006 and throughout 2007, the Company entered into swaps for a portion of its 2007 and 2008 aluminum supply to fix the purchase price, and thereby substantially reduce the variability of its purchase price for this commodity. These swaps, which expire by December 31, 2008, have a notional amount of \$23.6 million and a fair market value receivable (which is determined based on Level 2 inputs under SFAS No. 157) of \$4.2 million as of March 31, 2008. These instruments have been designated as cash flow hedges. For these qualifying hedges, SFAS No. 133 allows changes in the fair market value of these hedge instruments to be reported in accumulated other comprehensive income. In connection with the 2008 Acquisition, Predecessor's other comprehensive income was eliminated in accordance with purchase accounting. The Company has assessed the effectiveness of the transactions that receive hedge accounting treatment and any ineffectiveness would be recorded in other (income) expense, net in the statement of income. The ineffectiveness for the period ended March 31, 2007 was a \$0.2 million gain (\$0.1 million, net of tax). Any such differences for the period ended March 31, 2008 were immaterial.

During the fourth quarter of 2006 and 2007, the Company entered into swaps for a portion of its 2007 and 2008 copper supply to fix the purchase price, and thereby substantially reduce the variability of its purchase price for this commodity. These swaps, which expire by December 31, 2008, have a notional amount of \$46.3 million and a fair market value receivable (which is determined based on Level 2 inputs under SFAS No. 157) of \$10.8 million as of March 31, 2008. These instruments have been designated as cash flow hedges. For these qualifying hedges, SFAS No. 133 allows changes in the fair market value of these hedge instruments to be reported in accumulated other comprehensive income. The Company has assessed the effectiveness of the transactions that receive hedge accounting treatment and any ineffectiveness would be recorded in other income, net in the statement of income. The ineffectiveness for the period ended March 31, 2008 was a \$0.1 million income (\$0.06 million, net of tax). Any such differences for the period ended March 31, 2007 were immaterial.

**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)****Three Months Ended March 31, 2008****(Unaudited)****8. Income Taxes**

The effective tax rates for the periods January 1, 2008 to February 13, 2008 and February 14, 2008 to March 31, 2008 were 35.2% and 29.6%, respectively. The effective rate for the three months ended March 31, 2007 was 33.8%. The effective tax rate for the three months ended March 31, 2008 was impacted by the state tax rate, domestic production activities deduction and transaction costs. The prior year was also impacted by the state tax rate and the domestic production activities deduction.

**9. Employee Benefit Plans**

The Company sponsors a defined benefit plan, which covers union employees hired on or before December 14, 2002 who have both attained age 21 and completed one year of service. Benefits are provided at stated amounts based on years of service, as defined by the plan. Benefits vest after completion of five years of service. The Company's funding policy is to make contributions in amounts adequate to fund the benefits to be provided. Plan assets consist of primarily equity and fixed-income securities.

The Company did not make any contributions to the plan during the first quarter of 2008. The Company will make contributions to the plan during the remainder of 2008 of approximately \$1.9 million.

The components of net periodic benefit cost recognized during interim periods are as follows (in thousands):

	<b>Successor</b> <b>February 14 to</b> <b>March 31, 2008</b>	<b>Predecessor</b> <b>January 1 to</b> <b>February 13,</b> <b>2008</b>	<b>Predecessor</b> <b>Three Months</b> <b>Ended</b> <b>March 31, 2007</b>
Service cost	\$ 90	\$ 81	\$ 202
Interest cost	244	219	436
Expected return on plan assets	(300)	(268)	(535)
Amortization of prior service cost	2	1	20
<b>Net periodic benefit cost</b>	<b>\$ 36</b>	<b>\$ 33</b>	<b>\$ 123</b>

**10. Contingent Liabilities**

On October 26, 2007, a putative class action was filed on behalf of all similarly situated stockholders of the Company in the Harris County District Court, Houston, Texas, styled Call4U, Ltd. v. Carroll, Case Number 2007-66888. A similar case, styled Pipefitters Local No. 636 Defined Benefit Plan vs. Goodman, was later filed and then consolidated with the Call 4U, Ltd. case. The lawsuits named as defendants the Company all of its directors and Hellman & Friedman, and asserted claims for breach of fiduciary duty against the directors and aiding and abetting such breaches against Hellman & Friedman. The plaintiffs sought an injunction restraining the closing of the merger, reimbursement of associated attorneys' and experts' fees and other relief that the court deems proper. On January 4, 2008 Goodman entered into a memorandum of understanding setting out an agreement in principal to settle all claims in the litigation, which settlement is subject to certain conditions precedent, including court approval.

As part of the equity contribution associated with the sale of the Amana Appliance business in July 2001, the Company agreed to indemnify Maytag for certain product liability and environmental claims. In light of these



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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS (Continued)**

**Three Months Ended March 31, 2008**

**(Unaudited)**

potential liabilities, the Company has purchased insurance that the Company expects will shield it from incurring material costs to such potential claims.

Pursuant to a March 15, 2001 Consent Order with the Florida Department of Environmental Protection (FDEP), our subsidiary, Goodman Distribution Southeast, Inc. (GDI Southeast) (formerly Pioneer Metals Inc.) is continuing to investigate and pursue, under FDEP oversight, the delineation of groundwater contamination at and around the GDI Southeast facility in Fort Pierce, Florida. Remediation has not begun. The contamination was discovered through environmental assessments conducted in connection with a Company subsidiary's acquisition of the Fort Pierce facility in 2000 and was reported to FDEP, giving rise to the Consent Order.

The ultimate cost for the investigation, remediation and monitoring of the site cannot be predicted with certainty due to the variables relating to the contamination and the appropriate remediation methodology, the evolving nature of remediation technologies and governmental regulations and the inability to determine the extent to which contribution will be available from other parties. All of these factors are taken into account to the extent possible in estimating potential liability. A reserve appropriate for the probable remediation costs, which are reasonably susceptible to estimation, has been established.

Based on analyses of currently available information, it is probable that costs associated with the site will be \$0.7 million. We reserved approximately \$0.7 million as of March 31, 2008 in accordance with SFAS No. 5, *Accounting for Contingencies*, although it is possible that costs could exceed this amount by up to approximately \$2.8 million. Management believes any liability arising from potential environmental obligations is not likely to have a material adverse effect on our liquidity or financial position as such obligations could be satisfied over a period of years. Nevertheless, future developments could require material changes in the recorded reserve amount.

We believe this contamination predated GDI Southeast's involvement with the Fort Pierce facility and GDI Southeast's operation at this location has not caused or contributed to the contamination. Accordingly, the Company is pursuing litigation against former owners of the Fort Pierce facility in an attempt to recover its costs. At this time, we cannot estimate probable recoveries from this litigation.

The Company is party to a number of other pending legal and administrative proceedings and is subject to various regulatory and compliance obligations. The Company believes that these proceedings and obligations will not have a materially adverse effect on its consolidated financial condition, cash flows or results of operations. To the extent required, the Company has established reserves that it believes to be adequate based on current evaluations and its experience in these types of matters. Nevertheless, an unexpected outcome in any such proceeding could have a material adverse impact on the Company's consolidated results of operations in the period in which it occurs. Moreover, future adverse developments could require material changes in the recorded reserve amounts.

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Board of Directors and Shareholders of

Goodman Global, Inc.

We have audited the accompanying consolidated balance sheets of Goodman Global, Inc. (the Company) as of December 31, 2007 and 2006, and the related consolidated statements of income, shareholders' equity, and cash flows for the three years ended December 31, 2007. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Goodman Global, Inc. at December 31, 2007 and 2006, and the consolidated results of its operations and its cash flows for the three years ended December 31, 2007, in conformity with U.S. generally accepted accounting principles.

As discussed in Note 4 to the consolidated financial statements, effective January 1, 2007, the Company adopted Financial Accounting Standards Board Interpretation No. 48, Accounting for Uncertainty in Income Taxes, an interpretation of FASB Statement No. 109. Additionally, as discussed in Notes 2 and 9 to the consolidated financial statements, effective January 1, 2006, the Company adopted Statement of Financial Accounting Standards No. 123(R), Share-Based Payments, and, effective December 31, 2006, Statement of Financial Accounting Standards No. 158, Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans, an amendment of FASB Statements No. 87, 88, 106 and 132(R), respectively.

/s/ Ernst & Young LLP

Houston, Texas

March 12, 2008

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**GOODMAN GLOBAL, INC.**  
**CONSOLIDATED BALANCE SHEETS**

	December 31,	
	2007	2006
	(In thousands)	
<b>Assets</b>		
Cash and cash equivalents	\$ 18,955	\$ 11,569
Restricted cash	2,600	2,600
Accounts receivable, net of allowance for doubtful accounts (\$7.0 million in 2007; \$7.3 million in 2006)	217,035	200,086
Inventories, net	277,723	346,059
Deferred tax assets	41,062	29,321
Other current assets	18,246	25,976
<b>Total current assets</b>	<b>575,621</b>	<b>615,611</b>
Property, plant, and equipment, net	159,395	172,246
Goodwill	391,287	391,287
Identifiable intangibles	398,707	407,572
Deferred tax assets	28,059	15,011
Deferred financing costs	14,548	22,244
<b>Total assets</b>	<b>\$ 1,567,617</b>	<b>\$ 1,623,971</b>
<b>Liabilities and shareholders' equity</b>		
<b>Current liabilities:</b>		
Trade accounts payable	\$ 104,438	\$ 121,689
Accrued warranty	39,669	41,773
Other accrued expenses	92,040	80,347
Current portion of long-term debt	3,500	3,500
<b>Total current liabilities</b>	<b>239,647</b>	<b>247,309</b>
Long-term debt, less current portion	651,925	834,550
Revolving credit facility		
Other long-term liabilities	53,939	21,027
Common stock, par value \$.01, 275,000,000 shares authorized, 68,938,590 issued and outstanding as of December 31, 2007 and 68,903,322 issued and outstanding as of December 31, 2006	689	689
Accumulated other comprehensive income	337	3,087
Additional paid-in capital	466,056	462,590
Retained earnings	155,024	54,719
<b>Total shareholders' equity</b>	<b>622,106</b>	<b>521,085</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 1,567,617</b>	<b>\$ 1,623,971</b>

The accompanying notes are an integral part of the consolidated financial statements.

**Table of Contents****GOODMAN GLOBAL, INC.****CONSOLIDATED STATEMENTS OF INCOME**

	For the years ended December 31,		
	2007	2006	2005
	(in thousands)		
Sales, net	\$ 1,935,690	\$ 1,794,753	\$ 1,565,406
Costs and expenses:			
Cost of goods sold	1,462,776	1,374,774	1,243,408
Selling, general, and administrative expenses	210,613	205,894	170,077
Depreciation expense	26,254	23,776	17,838
Amortization expense	8,865	8,865	19,879
Operating profit	227,182	181,444	114,204
Interest expense	68,378	77,825	74,213
Other (income) expense, net	(2,752)	5,264	(706)
Earnings before taxes	161,556	98,355	40,697
Provision for income taxes	60,177	34,188	15,817
Net income	\$ 101,379	\$ 64,167	\$ 24,880
Less: Preferred stock dividends		6,622	22,512
Net income available to common shareholders	\$ 101,379	\$ 57,545	\$ 2,368

The accompanying notes are an integral part of the consolidated financial statements.



**Table of Contents****GOODMAN GLOBAL, INC.****CONSOLIDATED STATEMENTS OF SHAREHOLDERS EQUITY**

	Common Stock		Additional Paid-In Capital	Retained Earnings (Deficit) (in thousands)	Accumulated Other Comprehensive (Loss) Income	Total
	Shares	Amount				
Balance at December 31, 2004	47,851	\$ 479	\$ 107,434	\$ (5,194)	\$	\$ 102,719
Net income				24,880		24,880
Minimum pension liability adjustment, net of (\$421) in taxes					(673)	(673)
Foreign currency translation					325	325
Change in fair value of derivatives, net of \$1,525 in taxes					2,436	2,436
Comprehensive income						26,968
Preferred stock dividend				(22,512)		(22,512)
Common stock issued	121	1	639			640
Balance at December 31, 2005	47,972	\$ 480	\$ 108,073	\$ (2,826)	\$ 2,088	\$ 107,815
Net income				64,167		64,167
Change in fair value of derivatives, net of \$414 in taxes					661	661
Foreign currency translation					797	797
Defined Benefit Plans:						
Prior service costs, net of (\$343) in taxes					(549)	(549)
Net loss arising during the period, net of \$56 in taxes					90	90
Comprehensive income						65,166
Preferred stock dividend				(6,622)		(6,622)
Common stock issued	20,931	209	351,961			352,170
Stock-based compensation expense			2,556			2,556
Balance at December 31, 2006	68,903	\$ 689	\$ 462,590	\$ 54,719	\$ 3,087	\$ 521,085
Net income				101,379		101,379
Change in fair value of derivatives, net of (\$2,462) in taxes					(5,339)	(5,339)
Foreign currency translation					2,228	2,228
Defined Benefit Plans:						
Prior service costs, net of \$197 in taxes					314	314
Net loss arising during the period, net of \$29 in taxes					47	47
Comprehensive income						98,629
Common stock issued	36		307			307
Stock-based compensation expense			3,159			3,159
Cumulative effect of FIN 48 adoption				(1,074)		(1,074)
Balance at December 31, 2007	68,939	\$ 689	\$ 466,056	\$ 155,024	\$ 337	\$ 622,106

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The accompanying notes are an integral part of the consolidated financial statements.

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**Table of Contents****GOODMAN GLOBAL, INC.****CONSOLIDATED STATEMENTS OF CASH FLOWS**

	2007	2006 (in thousands)	2005
<b>Operating activities</b>			
Net income	\$ 101,379	\$ 64,167	\$ 24,880
Adjustments to reconcile net income to net cash provided by operating activities:			
Adjustments to goodwill			(2,260)
Depreciation	26,254	23,776	17,838
Amortization	8,865	8,865	19,879
Allowance for bad debt	(230)	(534)	(336)
Deferred tax provision	6,150	15,992	(5,872)
Gain on disposal of assets	(1,999)	(15)	(294)
Amortization of inventory step-up in basis			39,586
Compensation expense related to stock options	3,363	2,696	
Amortization of deferred financing costs	7,757	8,113	5,241
Changes in operating assets and liabilities:			
Accounts receivable	(16,719)	20,571	(63,506)
Inventories	68,336	(42,764)	(41,919)
Other assets	3,803	(13,125)	(3,050)
Accounts payable and accrued expenses	(2,742)	(34,018)	115,332
Net cash provided by operating activities	204,217	53,724	105,519
<b>Investing activities</b>			
Purchases of property, plant, and equipment	(26,416)	(39,383)	(28,806)
Proceeds from the sale of property, plant, and equipment	12,235	40	3,810
Other assets and liabilities			39
Net cash used in investing activities	(14,181)	(39,343)	(24,957)
<b>Financing activities</b>			
Repayments of long-term debt	(182,625)	(123,325)	(38,625)
Exercise of stock options	204	14	
Proceeds from initial public offering		354,491	
Redemption of preferred stock and accrued dividends		(255,234)	
Net borrowing (payments) under revolving line facility			(24,135)
Initial public offering transaction costs		(2,537)	
Stock purchase			1,210
Working capital adjustment			1,330
Other transaction costs	(229)		(419)
Net cash used in financing activities	(182,650)	(26,591)	(60,639)
Net increase (decrease) in cash	7,386	(12,210)	19,923
Cash at beginning of period	11,569	23,779	3,856
Cash at end of period	\$ 18,955	\$ 11,569	\$ 23,779

Supplementary disclosures of cash flow information:

Cash paid during the period for:

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Interest	\$ 64,337	\$ 70,407	\$ 62,625
Income taxes	\$ 48,950	\$ 40,439	\$ 7,960
Non-cash item: Accrual for purchases of property, plant and equipment	\$ 1,600	\$ 6,546	\$ 10,431

The accompanying notes are an integral part of the consolidated financial statements.

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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**1. Nature of operations**

Goodman Global, Inc. (the Company), through its subsidiaries, is the second-largest U.S. manufacturer of heating, ventilation, and air-conditioning (HVAC) products for residential and light commercial uses based on unit sales. The Company's activities include engineering, manufacturing, and marketing of an extensive line of heating, air-conditioning, and related products in the United States and in certain international markets. Branded products manufactured and marketed by the Company include primarily Goodman®, Amana®, and Quietflex®. The Company sells its products to various types of customers, including distributors, installing dealers, national accounts and original equipment manufacturers with no single customer accounting for more than 10% of consolidated 2007 net revenues. Less than 5% of the 2007 consolidated revenues were derived from external customers outside the United States. Although there is demand for the Company's products throughout the year, in each of the past three years approximately 56% to 58% of total sales occurred in the second and third quarters of the fiscal year. The Company's peak production occurs in the first and second quarters in anticipation of peak sales quarters.

The Company follows Statement of Financial Accounting Standards (SFAS) No. 131, *Disclosures about Segments of an Enterprise and Related Information*. As the Company's consolidated financial information is reviewed by the chief decision makers, and the business is managed under one operating and marketing strategy, the Company operates under one reportable segment. Approximately 1% of the Company's assets are located outside the United States.

**Basis of presentation**

On December 23, 2004, the Company was acquired under an Asset Purchase Agreement (the Agreement) by affiliates of Apollo Management L.P. (Apollo), Company senior management and certain trusts associated with members of the Goodman family (the Goodman Trusts) (the 2004 Acquisition). Under the Agreement, the Company sold all of its equity interest in its subsidiaries as well as substantially all of its assets and liabilities for \$1,477.5 million plus a working capital adjustment of \$29.8 million. The 2004 Acquisition was financed with the net proceeds of a private offering of senior unsecured notes, borrowings under a new senior secured credit facility and \$477.5 million of equity contributions by affiliates of Apollo, the Goodman Trusts, and certain members of senior management. In connection with the 2004 Acquisition, the Goodman Trusts and members of senior management invested approximately \$101.0 million and \$18.2 million, respectively.

Effective April 4, 2006, the Company's Board of Directors approved a 7.580345-for-1 stock split of the Company's common stock. All periods presented are reflective of the effected stock split.

On April 11, 2006, the Company completed the initial public offering of the Company's common stock. The Company offered 20.9 million shares and selling shareholders sold an additional 6.1 million shares, which included 3.5 million shares sold by selling shareholders pursuant to the exercise of the underwriters' over-allotment option. Before expenses, the Company received proceeds of approximately \$354.5 million. These proceeds were used to redeem all of the Company's outstanding Series A Preferred Stock including associated accrued dividends, to satisfy a \$16.0 million fee resulting from the termination of the Company's management agreement with Apollo and to redeem \$70.7 million of the Company's subsidiary's floating rate notes.

On February 13, 2008, the Company completed a merger with an affiliate of a private equity firm, Hellman & Friedman LLC. (the 2008 Merger). See Note 12, Subsequent Event.

**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****2. Significant accounting policies****Restricted cash and cash equivalents**

Cash equivalents represent short-term investments with an original maturity of three months or less. At December 31, 2007 and 2006, the restricted cash pertains to the Company's extended warranty program.

**Inventories**

Inventory costs include material, labor, depreciation, logistics and plant overhead. The Company's inventory is stated at the lower of cost or market using the first in, first out (FIFO) method. When deemed appropriate, the Company writes inventory down to its estimated realizable value based upon assumptions about future demand, physical conditions of products and market conditions.

A roll forward of the inventory reserves as of December 31, follows (in thousands):

	2007	2006	2005
At the beginning of the period	\$ 4,568	\$ 1,785	\$ 2,245
Current-year accruals	3,261	7,680	6,190
Current-year write-offs	(3,094)	(4,897)	(6,650)
At the end of the period	\$ 4,735	\$ 4,568	\$ 1,785

**Property, plant, and equipment**

Property, plant, and equipment is stated at cost less accumulated depreciation. Expenditures for renewals and betterments are capitalized and expenditures for repairs and maintenance are charged to expense as incurred. Buildings are depreciated using the straight-line method over the estimated useful lives of the assets, which is 39 years. Equipment is depreciated on a straight-line basis over the assets' remaining useful lives.

During 2007, the Company disposed of assets for net proceeds of \$12.2 million and net gains of \$4.2 million, of which \$2.0 million has been recognized. At the time of sale, the Company entered into leases for a portion of three of the disposed properties and therefore has deferred \$2.2 million of the gains as of December 31, 2007.

Interest attributable to construction in progress assets is capitalized. For the twelve months ended December 31, 2007, 2006 and 2005, the Company capitalized \$0.4 million, \$1.3 million and \$0.9 million in interest, respectively.

**Impairment of long-lived assets**

The Company follows the provisions of SFAS No. 144, *Accounting for the Impairment of Long-Lived Assets*. The statement sets forth the accounting for impairment of long-lived assets other than goodwill and indefinite-lived intangibles. The Company periodically evaluates whether current facts or circumstances indicate that the carrying value of its depreciable assets to be held and used may not be recoverable. If such circumstances are determined to exist, an estimate of undiscounted future cash flows produced by the long-lived asset is compared to the carrying value to determine whether impairment exists. If an asset is determined to be impaired, the loss is measured based on a quoted market price or the fair value based on various valuation techniques.



**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****Deferred financing costs**

Debt issuance costs are capitalized and amortized to interest expense using the effective interest method over the period the related debt is anticipated to be outstanding. During the years ended December 31, 2007 and December 31, 2006, in connection with the early payments on our Term Notes, we took additional charges to interest expense totaling \$3.5 million and \$3.9 million, respectively related to the proportional write-off of deferred financing costs.

**Identifiable intangible assets**

The values assigned to amortizable intangible assets are amortized to expense over their estimated useful lives and are reviewed for potential impairment. The estimated useful lives are based on an evaluation of the circumstances surrounding each asset, including an evaluation of events that may have occurred that would cause the useful life to be decreased. In the event the useful life would be considered to be shortened, or if the asset's future value were deemed to be impaired, an appropriate amount would be charged to amortization expense. Future operating results and residual values could therefore reasonably differ from the Company's current estimates and could require a provision for impairment in a future period. Indefinite lived intangible assets are reviewed in accordance with SFAS No. 142, Goodwill and Other Intangibles, by comparison of the fair market value with its carrying amount.

The Company assigned a value of approximately \$11.0 million to a particular renewable sales contract. During the fourth quarter of 2005, a decision was made not to renew this agreement before its expiration. As a result, the net balance of this intangible, approximately \$10.3 million, was taken as a charge to amortization expense in the accompanying statement of income in the fourth quarter of 2005.

Amounts allocated to identifiable intangible assets are amortized on a straight-line basis over their estimated useful lives with no residual value as follows:

Trade names	Indefinite
Customer relationships	40 years
Technology	10 years
Contracts	15 years

Absent the Merger, the amortization related to the amortizable intangible assets in the aggregate would have been approximately \$8.9 million per year over the next five years. See Note 12, Subsequent Event.

The useful life of our customer relationships was determined based on the total life of a distributor. Factors that contribute to this total life are the nature of the relationship with these distributors, the quality of the service and merchandise that we provide, the territorial preferences given to these distributors and the low turnover rates.



**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

Identifiable intangible assets at December 31, 2007 and 2006, consists of the following (in thousands):

	Gross	Accumulated Amortization & Impairment	2007 Net
Intangible assets subject to amortization:			
Customer relationships	\$ 291,560	\$ 22,046	\$ 269,514
Technology	15,760	4,767	10,993
Contracts	11,033	11,033	
<b>Total intangible assets subject to amortization</b>	<b>318,353</b>	<b>37,846</b>	<b>280,507</b>
Total indefinite-lived trade names	118,200		118,200
<b>Total identifiable intangible assets</b>	<b>\$ 436,553</b>	<b>\$ 37,846</b>	<b>\$ 398,707</b>

	Gross	Accumulated Amortization & Impairment	2006 Net
Intangible assets subject to amortization:			
Customer relationships	\$ 291,560	\$ 14,757	\$ 276,803
Technology	15,760	3,191	12,569
Contracts	11,033	11,033	
<b>Total intangible assets subject to amortization</b>	<b>318,353</b>	<b>28,981</b>	<b>289,372</b>
Total indefinite-lived trade names	118,200		118,200
<b>Total identifiable intangible assets</b>	<b>\$ 436,553</b>	<b>\$ 28,981</b>	<b>\$ 407,572</b>

**Goodwill**

Goodwill is the excess of the cost of an acquired company over the amounts assigned to assets acquired and liabilities assumed. Under SFAS No. 142, *Goodwill and Other Intangible Assets*, goodwill and other indefinite-lived intangibles are not amortized, but are tested for impairment annually, or more frequently if an event occurs or circumstances change that would indicate the carrying amount could be impaired. Impairment testing for goodwill is done at the reporting unit level, which is one level below the business segment level. Under the criteria set forth by SFAS No. 142, the Company has two reporting units, and goodwill was allocated to these reporting units based on the net assets acquired. An impairment charge generally would be recognized when the carrying amount of the reporting unit exceeds the estimated fair market value of the reporting unit. The Company performed its annual test as of October 1, 2007 and determined that no impairment exists.

**Fair value of financial instruments**

Financial instruments include cash equivalents, accounts receivable, accounts payable, revolving loans payable, long-term debt, and interest rate and commodity swap agreements. Management believes the fair value of cash equivalents, accounts receivable and accounts payable approximates their carrying value due to their short-term nature. The fair value of revolving loans payable and long-term debt is estimated based on anticipated interest rates that management believes would currently be available to the Company for similar issues of debt, taking into account the current credit risk of the Company and other market factors, and arms length trades for debt securities, which are traded. The fair value of long-term debt is estimated to approximate the carrying amount at December 31, 2007. Interest rate and commodity swaps are recorded

at fair value.

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**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****Revenue recognition**

Revenue from the sale of products is recognized when persuasive evidence of an arrangement exists, delivery has occurred, sale price is fixed and determinable, and collectibility is reasonably assured. Revenues are recorded net of rebates to certain distributors, dealers and builders. These rebates relate to several programs and are designed to stimulate sales of the Company's products. Provisions are made for warranties at the time revenues are recognized. Costs associated with shipping and handling of the Company's products is included in costs of goods sold.

The Company consigns certain products to many of its independent distributors. Product inventories shipped on consignment terms are maintained under a consignment arrangement on the premises of independent distributors. Revenues and cost of sales are recognized at the time consigned inventory is sold by the independent distributor to a third party.

**Trade and other receivables**

The Company's receivables are recorded when billed and represent claims against third parties that will be settled in cash. The customer's financial position is periodically reviewed and no collateral is required. The carrying value of the Company's receivables, net of the allowance for doubtful accounts, represents their estimated net realizable value. The Company estimates its allowance for doubtful accounts based on historical collection trends, type of customer, the age of outstanding receivables, and existing economic conditions. If events or changes in circumstances indicate that specific receivable balances may be impaired, further consideration is given to the collectibility of those balances, and the allowance is adjusted accordingly. The Company does not have significant credit risk concentrations and historically has not experienced significant losses related to its receivables.

A rollforward of the allowance for doubtful accounts as of December 31, follows (in thousands):

	2007	2006	2005
At the beginning of the period	\$ 7,258	\$ 7,795	\$ 8,130
Current-year accruals	5,699	4,322	9,367
Current-year write-offs	(5,925)	(4,859)	(9,702)
At the end of the period	\$ 7,032	\$ 7,258	\$ 7,795

**Warranty costs**

Warranty costs are accrued at the time of sale based on estimated future warranty claims. The Company's estimated future warranty claims are determined based on historical failure rates and other factors. The Company also sells extended warranty contracts for certain of its products with terms of up to ten years. Revenues from extended warranty contracts are deferred and amortized on a straight-line basis over the term of the contracts. Expenses related to obtaining and servicing these contracts are expensed as incurred.

A rollforward of the liabilities for warranties as of December 31, follows (in thousands):

	2007	2006	2005
At the beginning of the period	\$ 41,773	\$ 37,685	\$ 39,086
Current-year accruals	40,801	35,192	29,606
Current-year write-offs	(42,905)	(31,104)	(31,007)

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At the end of the period

\$ 39,669

\$ 41,773

\$ 37,685

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**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****Accrued self insurance reserves**

The Company is self-insured up to certain stop-loss amounts for workers' compensation, product liability, general liability, auto liability, group health and physical damage. The expense and liabilities are determined based on historical company claims information, as well as industry factors and trends in the level of such claims and payments. Our self-insurance reserves, calculated on an undiscounted basis, as of December 31, 2007 and 2006, represent the best estimate of the future payments to be made on incurred claims reported and unreported. Based on historical payment patterns, the Company expects payments of undiscounted ultimate losses related to workers' compensation as of December 31, to be made as follows (in thousands):

2008	\$ 4,402
2009	1,586
2010	1,035
2011	727
2012	427
Thereafter	220
<b>Total</b>	<b>\$ 8,397</b>

**Stock compensation plans**

On December 23, 2004, the Company adopted the 2004 Stock Option Plan. Under this plan, as amended, 4,798,752 shares of the authorized but unissued shares of common stock of Goodman Global, Inc. were reserved for issuance. The plan permitted the grant of options to purchase shares of common stock to eligible employees, consultants, and directors. As of December 31, 2007, the Company had granted approximately 4.7 million options, a portion of which vest based on time in installments through 2009, and a portion of which vest in 2012 subject to accelerated vesting based on the achievement of specified performance targets through 2008. No additional options to purchase shares of common stock were granted under the 2004 Stock Option Plan. During the first quarter of 2006, the Company amended certain options granted on December 23, 2004, March 1, 2005 and April 18, 2005 to provide that the installment, which would otherwise become vested with respect to the fiscal year 2009 upon attaining certain financial performance targets, became vested upon consummation of the initial public offering which occurred in April of 2006.

On February 1, 2006, the Company adopted the 2006 Incentive Award Plan (2006 Plan). Under this plan, 1,895,086 shares of the authorized but unissued shares of common stock of the Company were reserved for issuance. In addition, shares of common stock that remained available for future option grants under the 2004 Stock Option Plan and shares underlying any existing grants under the 2004 Stock Option Plan that were forfeited were available for issuance under the 2006 Plan. The plan permitted the grant of stock-based compensation awards to eligible employees, consultants and directors. The 2006 Plan provided for a variety of such awards, including non-qualified stock options, incentive stock options (within the meaning of Section 422 of the Internal Revenue Code), stock appreciation rights, restricted stock awards, restricted stock unit awards, deferred stock awards, dividend equivalents, performance share awards, performance stock unit awards, performance-based awards or stock payment awards. As of December 31, 2007, approximately 17,000 shares of restricted stock had been issued under the 2006 Plan. These restricted shares could not be sold or otherwise transferred until restrictions lapse, one year after the date of grant. The weighted average grant date fair value of the restricted shares granted as of December 31, 2007 was \$18.44. Recorded compensation costs for these shares for the twelve months ended December 31, 2007 was not material. For year ended December 31, 2007, 0.7 million options also had been granted under this plan.

**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

A summary of stock option activity follows (in thousands except for per share data):

	Shares	Weighted Average Exercise Price per Share
Outstanding at December 31, 2004	3,472	\$ 5.28
Granted	1,179	10.89
Outstanding at December 31, 2005	4,651	6.70
Granted	20	20.10
Exercised	(3)	5.28
Forfeited	(63)	9.70
Outstanding at December 31, 2006	4,605	6.72
Granted	653	19.16
Exercised	(30)	7.79
Forfeited	(21)	12.30
Outstanding at December 31, 2007	5,207	\$ 8.25

The following table summarizes information about stock options outstanding as of December 31, 2007 (in thousands, except per share, and year data):

Range of Exercise Prices Per Share	Options Outstanding				Options Exercisable			
	Number Outstanding	Weighted Average Remaining Contractual Term (in years)	Weighted Average Exercise Price Per Share	Aggregate Intrinsic Value	Number Exercisable	Weighted Average Remaining Contractual Term (in years)	Weighted Average Exercise Price Per Share	Aggregate Intrinsic Value
\$5.28 - \$21.80	5,207	7.6	\$ 8.25	\$ 84,829	3,521	7.4	\$ 5.90	\$ 61,548

A summary of the status of the Company's nonvested stock options as of December 31, 2007 and changes since inception of the plan is presented below (in thousands except for per share data):

	Shares	Weighted Average Grant Date Fair Value Per Share
Nonvested at December 31, 2004	3,472	\$ 1.71
Granted	1,179	2.24
Vested	(979)	1.71
Nonvested at December 31, 2005	3,672	1.88

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Granted	20		8.21
Vested	(1,401)		1.71
Forfeited	(56)		2.18
Nonvested at December 31, 2006	2,235		1.97
Granted	653		7.75
Vested	(1,183)		1.93
Forfeited	(19)		3.73
Nonvested at December 31, 2007	1,686	\$	3.68

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**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

Prior to January 1, 2006, the Company accounted for stock-based compensation under the recognition and measurement principles of Accounting Principles Board (APB) Opinion No. 25, *Accounting for Stock Issued to Employees*, and related interpretations (APB No. 25), and had adopted the disclosure-only provisions of Statement of Financial Accounting Standards No. 123 (SFAS No. 123), *Accounting for Stock-Based Compensation*, as amended. Under APB No. 25, no stock-based compensation cost was reflected in net income for grants of stock options to employees because the Company granted stock options with an exercise price equal to the estimated market value of the stock on the date of grant. Effective January 1, 2006, the Company adopted the fair value recognition provisions of SFAS No. 123(R), *Share-Based Payment*, using the modified-prospective-transition method. Under this transition method, compensation cost recognized in 2006 included:

(a) compensation costs for all share-based payments granted prior to, but not yet vested as of the date of adoption based on the grant date fair value estimated in accordance with the original provisions of SFAS No. 123, and (b) compensation cost for all share-based payments granted subsequent to the date of adoption will be based on the grant date fair value estimated in accordance with the provisions of SFAS No. 123(R). In accordance with SFAS No. 123(R), results of prior periods have not been restated.

As a result of adopting SFAS No. 123(R), the Company recognized compensation expense of \$3.2 million (\$2.0 million after tax) and \$2.6 million (\$1.7 million after tax), during the twelve months ended December 31, 2007 and 2006, which is included in selling, general and administrative expenses in the accompanying statement of income. Included in compensation expense for the twelve months ended December 31, 2006 discussed above, is \$0.7 million related to the 381,331 stock options that vested at the consummation of the Company's initial public offering in April of 2006.

The fair value of each option award is estimated on the date of grant using the Black-Scholes-Merton model using assumptions discussed below. The expected volatility of 20% at the grant date was based mainly on the volatility of the Company's competitors. The expected term of the options granted of 7 to 8 years is based on the time period the options are expected to be outstanding. The risk-free interest rate of between 4.5% and 5.0% is based on the U.S. Treasury rate of a note with the expected maturity of the expected term of the options. The Company has not considered a dividend payment in its calculation and believes that forfeitures will not be significant.

As of December 31, 2007, the total compensation cost related to nonvested awards not yet recognized in the statement of income of the Company is \$6.3 million. This amount will be recognized on a weighted average period of 1.6 years.

As of January 1, 2006, the Company adopted SFAS No. 123(R), thereby eliminating pro-forma disclosure for periods subsequent to adoption. The effect on net income and earnings per share, if the Company had applied the fair value recognition provisions of SFAS No. 123 to the options granted under the Company's stock option plan for the twelve months ended December 31, 2005 is summarized below (in thousands, except earnings per share). There would have been no effect on the Company's statements of cash flow for this period. For purposes of this disclosure, the value of the options is estimated using a Black-Scholes-Merton option valuation model and amortized to expense over the options vesting period.

	<b>2005</b>
Effect on Net Income Before Taxes	\$ 1,779
Effect on Net Income	\$ 1,087
Effect on diluted earnings per share available to common shareholders	\$ 0.03



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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Pensions and other postretirement benefits**

The Company accounts for its defined benefit pension plan and its defined benefit postretirement medical plan in accordance with SFAS No. 158, *Employers' Accounting for Defined Benefit Pension and other Postretirement Plans*, SFAS No. 87, *Employers' Accounting for Pensions* and SFAS No. 106, *Employers' Accounting for Postretirement Benefits Other Than Pensions*. These standards require that amounts recognized in the financial statements be determined on an actuarial basis. Significant assumptions involved in determining the Company's pension and other postretirement benefit expense include the expected return on plan assets, expected healthcare cost and the discount rate for calculating future liability. The assumed long-term rate of return on assets is applied to a calculated value of plan assets which results in an estimated return on plan assets that is included in current year pension income or expense.

**Research and development**

Research and development costs are charged to selling, general and administrative expense as incurred. Research and development expense was \$9.1 million, \$8.8 million and \$8.8 million for the years ended December 31, 2007, 2006 and 2005, respectively.

**Income taxes**

The Company uses the liability method of accounting for taxes. Under this method, deferred tax assets and liabilities are determined based on differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that will be in effect when such differences reverse.

The Company regularly evaluates valuation allowances established for deferred tax assets for which future realization is uncertain. The Company performs this evaluation at least quarterly and at the end of each fiscal year. The estimation of required valuation allowances includes estimates of future taxable income. In assessing the realizability of deferred tax assets at December 31, 2007 the Company considered whether it was more likely than not that some portion or all of the deferred tax assets would not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. The Company considers taxable income in carryback years, the reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment. If actual future taxable income is different from the estimates, the Company's results could be affected.

Effective January 1, 2007, we adopted the provisions of FIN No. 48, *Accounting for Uncertainty in Income Taxes*. FIN No. 48 clarifies SFAS No. 109, *Accounting for Income Taxes*, and requires us to evaluate our tax positions for all jurisdictions and for all years where the statute of limitations has not expired. FIN No. 48 requires companies to meet a more-likely-than-not threshold (i.e. greater than a 50 percent likelihood of a tax position being sustained under examination) prior to recording a benefit for their tax positions. Additionally, for tax positions meeting this more-likely-than-not threshold, the amount of benefit is limited to the largest benefit that has a greater than 50 percent probability of being realized upon effective settlement. We recognize interest and penalties related to unrecognized tax benefits in income tax expense on our income statement. For a further discussion of the impact of the adoption of FIN No. 48, see Note 4.

**Derivatives and hedging activities**

SFAS No. 133, *Accounting for Derivative Financial Instruments and Hedging Activities*, requires that all derivatives be recognized as assets and liabilities and measured at fair value. The accounting for changes in the

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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

fair value of a derivative depends on the intended use of the derivative, whether the derivative qualifies for hedge accounting and the resulting designation. The fair value of commodity hedges relating to raw materials used in production that qualify for hedge accounting are recorded to cost of goods sold in the period in which the end products are sold to our customers.

The Company's counterparties to these instruments are large financial institutions that have little credit risk.

**Advertising**

Advertising costs are expensed as incurred. Advertising expense was \$2.4 million, \$2.7 million and \$2.5 million for the years ended December 2007, 2006 and 2005, respectively.

**Use of estimates**

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from those estimates.

**Reclassifications**

Certain reclassifications have been made in the prior year consolidated financial statements to conform to the present year presentation.

**New accounting pronouncements**

In September 2006, the FASB issued Statement No. 157 (SFAS 157), *Fair Value Measurements*, which addresses how companies should measure fair value when they are required to use a fair value measure for recognition or disclosure purposes under generally accepted accounting principles. As a result of SFAS 157 there is now a common definition of fair value to be used throughout GAAP. The FASB believes that the new standard will make the measurement of fair value more consistent and comparable and improve disclosures about those measures. SFAS 157 is effective for fiscal years beginning after November 15, 2007. The Company is currently evaluating the requirements of the standard and does not believe the impact will have a material impact on our consolidated financial statements.

In February 2007, the FASB issued Statement No. 159 (SFAS 159), *The Fair Value Option for Financial Assets and Financial Liabilities*, which permits entities to elect to measure many financial instruments and certain other items at fair value that are not currently required to be measured at fair value. This election is irrevocable. SFAS 159 will be effective for fiscal years beginning after November 15, 2007. The Company is currently evaluating the requirements of the standard and does not currently expect to elect the fair value option for any of its assets and therefore does not expect this standard to have a material effect on our consolidated financial statements.

**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****3. Significant balance sheet accounts**

Inventories as of December 31, consist of the following (in thousands):

	2007	2006
Raw materials and parts	\$ 29,958	\$ 43,286
Finished goods	247,765	302,773
	<b>\$ 277,723</b>	<b>\$ 346,059</b>

Property, plant, and equipment as of December 31, consist of the following (in thousands):

	Useful Lives in Years	2007	2006
Land		\$ 9,291	\$ 12,162
Buildings and improvements	10 39	50,827	55,891
Equipment	3 10	156,861	131,206
Construction-in-progress		6,904	14,005
		<b>223,883</b>	<b>213,264</b>
Less: Accumulated depreciation		(64,488)	(41,018)
		<b>\$ 159,395</b>	<b>\$ 172,246</b>

Other accrued expenses as of December 31, consist of the following significant items (in thousands):

	2007	2006
Accrued rebates	\$ 33,710	\$ 27,060
Accrued self insurance reserves	13,636	15,753
Interest	1,792	3,928
Other	42,902	33,606
	<b>\$ 92,040</b>	<b>\$ 80,347</b>

Accumulated other comprehensive loss consists of the following (in thousands):

	Defined Benefit Plans	Cumulative Transition Adjustment	Change in Fair Value of Derivatives	Acquisition	Foreign Currency Translation	Total
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December 23, 2004	\$	\$	\$	\$
Net Change Through December 31, 2005	(673)	2,436	325	
December 31, 2005	(673)	2,436	325	2,088
Net Change Through December 31, 2006	(459)	661	797	999
December 31, 2006	(1,132)	3,097	1,122	3,087
Net Change Through December 31, 2007	361	(5,339)	2,228	(2,750)
December 31, 2007	\$ (771)	\$ (2,242)	\$ 3,350	\$ 337

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**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****4. Income taxes**

The provision (benefit) for income taxes consisted of the following (in thousands):

	Year Ended December 31, 2007	Year Ended December 31, 2006	Year Ended December 31, 2005
Current expense (benefit):			
U.S.			
Federal	\$ 44,905	\$ 14,267	\$ 19,156
State	7,199	2,350	2,533
Total U.S.	52,104	16,617	21,689
Foreign	1,923	1,703	
Total current	54,027	18,320	21,689
Deferred expense (benefit):			
U.S.			
Federal	5,591	14,426	(5,338)
State	559	1,442	(534)
Total U.S.	6,150	15,868	(5,872)
Foreign			
Total deferred	6,150	15,858	(5,872)
Total provision for income taxes	\$ 60,177	\$ 34,188	\$ 15,817

A reconciliation between the provision for income taxes and income taxes computed by applying the statutory rate is as follows (in thousands):

	Year Ended December 31, 2007	Year Ended December 31, 2006
Tax provision at statutory rate at 35%	\$ 56,545	\$ 34,424
Add (deduct):		
State income taxes, net of federal taxes	5,238	2,970
Domestic production activities deduction	(2,546)	(567)
Interest related to uncertain tax positions	1,258	
Other permanent differences	(488)	(1,079)
Prior year permanent differences		(1,560)
Changes in valuation allowance	170	
	\$ 60,177	\$ 34,188



**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

The tax effects of temporary differences that give rise to the deferred tax assets and liabilities as of December 31, were as follows:

	Year Ended December 31,	
	2007	2006
	(in thousands)	
Deferred tax assets:		
Accrued liabilities	\$ 46,905	\$ 30,273
Identifiable intangible assets	15,943	26,748
Goodwill	25,620	9,877
Stock options	2,279	1,039
Derivative instruments	1,448	
Net operating loss carryforward	3,769	4,549
Less: Valuation allowance	(3,528)	(3,358)
<b>Total Deferred Tax Asset</b>	<b>92,436</b>	<b>69,128</b>
Deferred tax liabilities:		
Accrued liabilities	(7,699)	(7,699)
Property, plant, and equipment	(15,616)	(15,160)
Derivative instruments		(1,937)
<b>Total Deferred Tax Liability</b>	<b>(23,315)</b>	<b>(24,796)</b>
<b>Net Deferred Tax Asset</b>	<b>\$ 69,121</b>	<b>\$ 44,332</b>

We adopted the provisions of Financial Accounting Standards Board Interpretation No. 48 *Accounting for Uncertainty in Income Taxes* (FIN 48), an interpretation of FASB Statement No. 109 (SFAS 109) on January 1, 2007. As a result of the implementation of FIN 48, we recognized an adjustment in the liability for unrecognized income tax benefits of \$1.1 million which was accounted for as a reduction to the January 1, 2007 balance of retained earnings. In addition, at January 1, 2007 we reclassified \$18.2 million from deferred taxes to other long-term liabilities.

A reconciliation of the beginning and ending amount of unrecognized tax benefits, including accrued interest, is as follows (in thousands):

Balance at January 1, 2007	\$ 19,271
Additions based on tax positions related to the current year	9,584
Additions related to tax positions of prior years	
Accrued interest	1,258
Reductions for tax positions of prior years	
Settlements	
Lapse of statute of limitations	
<b>Balance at December 31, 2007</b>	<b>\$ 30,113</b>

We recognize interest and penalties related to uncertain tax positions in income tax expense. There is no material impact on our tax expense for the period. As of December 31, 2007, we have approximately \$2.0 million of accrued interest related to uncertain tax positions.





**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

As of December 31, 2007, approximately \$2.4 million of unrecognized tax benefits (including interest) would affect our income tax expense and our effective income tax rate if recognized in future periods. While the amount of our unrecognized tax benefits could change in the next twelve months, we do not expect this change to have a significant impact on our results of operations or financial position.

The tax years 2004, 2005 and 2006 remain open to examination by the major taxing jurisdictions to which we are subject.

As of December 31, 2007, the Company has a net operating loss carryforward of \$9.8 million which expires beginning in 2014 through 2019, and a capital loss carryforward of \$0.4 million, which expires in 2010. As of December 31, 2007, the Company has a valuation allowance of \$3.5 million for the capital loss carryforward and the portion of the net operating loss carryforward that is subject to the Separate Return Limitation Year provision as a result of the 2004 Acquisition.

Based upon taxable income in carryback years, the reversal of deferred tax liabilities and projected future taxable income, the Company does not believe that a valuation allowance is warranted on the remaining deferred tax assets, as it is more likely than not that these deferred tax assets will be realized.

For the twelve months ended, December 31, 2007, 2006 and 2005 the Company paid taxes of \$49.0 million, \$40.4 million and \$8.0 million, respectively.

Deferred income taxes have not been provided for on unremitted foreign earnings reinvested abroad. Currently, we do not expect these unremitted earnings to reverse and become taxable to us in the future. Due to the timing and circumstances of repatriation of such earnings, if any, it is not practicable to determine the unrecognized deferred tax liability relating to such amounts. Our foreign subsidiary has cumulative earnings of approximately \$11.6 million for which no U.S. income taxes have been accrued based on our expectation that those funds are permanently reinvested in our operations in that country.

**5. Long-Term Debt**

Long-term debt as of December 31, consists of the following (in thousands):

	2007	2006
Senior Floating Rate Notes	\$ 179,300	\$ 179,300
Senior Subordinated Notes	400,000	400,000
Term credit facility	76,125	258,750
Revolving credit facility		
Current maturities	(3,500)	(3,500)
Total long-term debt (including revolving credit facility), less current maturities	\$ 651,925	\$ 834,550

On December 23, 2004, in connection with the acquisition, Goodman Global Holdings, Inc., a Delaware corporation, the Company's wholly owned subsidiary, issued \$250.0 million in aggregate principal amount of its senior floating rate notes, maturing in 2012, and \$400.0 million in aggregate principal amount of its 7<sup>7</sup>/<sub>8</sub>% senior subordinated notes, maturing in 2012, in a private placement under Rule 144A and Regulation S of the Securities Act (Note Offering). The senior floating rate notes under the Note Offering bear interest at LIBOR plus 3%. This rate was 7.99% as of December 31, 2007.

**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

In connection with the Note Offering, the Company also entered into senior secured credit facilities consisting of a term loan in the principal amount of \$350.0 million and a revolving credit facility in an aggregate amount of up to \$175.0 million, with staggered maturities through December 23, 2011 which was amended in March, 2006 (2004 Facility). The 2004 Facility is secured by substantially all of the assets of the Company and provides for term loan and revolving borrowings at LIBOR, plus a margin based upon a financial ratio as specified in the agreement. The borrowing rate for the 2004 Facility was 6.59% as of December 31, 2007. The Company had unused revolving credit capacity under the revolving credit facility of \$141.7 million at December 31, 2007. Outstanding commercial and standby letters of credit issued under the credit facility totaled \$33.3 million as of December 31, 2007.

All of the existing and future restricted U.S. subsidiaries of Goodman Global Holdings, Inc. (other thanASURECare Corp., a Florida corporation) guaranteed its floating rate notes and fixed rate notes. The Company is structured as a holding company and substantially all of its assets and operations are held by its subsidiaries. As of December 31, 2007, there were no significant restrictions on the ability of Goodman Global Holdings, Inc. to obtain funds from its subsidiaries by dividend or loan. The Company's and the non-guarantor subsidiaries' independent assets, revenues, income before taxes, and operating cash flows in total were less than 3% of the consolidated total. The separate guarantors of Goodman Global Holdings, Inc. fully and unconditionally, jointly and severally guaranteed the senior floating rate notes and the senior subordinated notes, and the aggregate assets, liabilities, earnings, and equity of the subsidiary guarantors was substantially equivalent to the assets, liabilities, earnings, and equity of the Company on a consolidated basis. As a result, the presentation of separate financial statements and other disclosures concerning the subsidiary guarantors is not deemed material.

Future scheduled maturities of the Long-Term Debt at December 31, 2007, are as follows (in thousands):

2008	\$ 3,500
2009	3,500
2010	3,500
2011	65,625
2012	579,300
Thereafter	
<b>Total</b>	<b>\$ 655,425</b>

Interest paid was \$64.3 million, \$70.4 million and \$62.6 million during December 31, 2007, 2006 and 2005 respectively. See Note 11 regarding derivative instruments.

**6. Redeemable preferred stock**

As of December 31, 2005, the Company's authorized capital stock included 250,000 shares of preferred stock. The preferred shares are 9.5% Series A Cumulative Senior Redeemable Exchangeable Preferred Stock, \$.01 par value per share, with a liquidation preference of \$1,000 per share. These shares did not have voting rights except as required by law. Dividends were paid as declared on a cumulative basis from the date of issuance and were paid quarterly in arrears on December 1, March 1, June 1 and September 1 of each year, commencing on March 1, 2005. These shares were redeemable by the Company at its option, at a price equal to the liquidation preference and all unpaid dividends. The Company was also able at its option to exchange any or all of the outstanding Series A Preferred Shares for 9.5% Senior Subordinated Discount Notes (the Subordinated Notes). The shareholders would have been entitled to receive \$1.00 of initial accreted value of Subordinated Notes for each \$1.00 of liquidation preference plus all unpaid dividends. The proceeds related to the April 11, 2006 initial

**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

public offering of the Company's common stock were used to redeem all of the Company's preferred shares including the associated dividends.

**7. Related-party transactions**

During 2005, the Company paid \$2.0 million to Apollo for certain management consulting and advisory services pursuant to a Management Consulting Agreement. As a result of the initial public offering in April of 2006, the Company paid a \$16.0 million fee to terminate the agreement with Apollo.

During 2007 and 2006, the Company paid \$0.2 million to a related party for an operating lease.

In the ordinary course of its business, Goodman purchased grilles and other materials from AirGuide Corp. ( AirGuide ) of approximately \$1.3 million and \$3.0 million in 2007 and 2006, respectively. Mr. Goodman, one of our former directors, and his immediate family were beneficiaries of trusts that owned a combined interest of 18.75% in AirGuide. As discussed in Note 12, Subsequent Events, subsequent to year end, Mr. Goodman is no longer a director of the Company and Mr. Goodman and the Goodman family trusts no longer own any beneficial interest in the Company.

In connection with the initial public offering in April 2006, the Company redeemed all of its outstanding Series A Preferred Stock with an aggregate liquidation preference and accrued and unpaid dividends of approximately \$255.2 million, of which members of the Company's management received approximately \$10.3 million, affiliates of Apollo received approximately \$173.7 million and the Goodman family trusts and other equity syndicate investors received approximately \$71.2 million. As of December 31, 2007 and 2006, Apollo owned approximately 41% of our common stock outstanding. As discussed in Note 12, Subsequent Event, subsequent to year end, neither Apollo nor the Goodman family trusts own an interest in our common stock.

**8. Leases**

The Company leases vehicles, computer and office equipment, and office and warehouse facilities from various third parties that are accounted for as operating leases and have expiration dates through 2016.

The Company also leases a warehouse facility under an operating lease with shareholders of the Company. The lease expires in 2014.

Future minimum lease payments under operating leases as of December 31, 2007, are as follows (in thousands):

	<b>Third Party</b>	<b>Related Party</b>
2008	\$ 24,996	\$ 198
2009	22,217	198
2010	17,199	198
2011	12,347	198
2012	8,720	198
Thereafter	15,478	380
<b>Total</b>	<b>\$ 100,957</b>	<b>\$ 1,370</b>

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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

Rent expense on the operating leases was \$28.7 million, \$23.7 million and \$18.4 million for the years ended December 31, 2007, 2006 and 2005, respectively.

**9. Employee benefit plans**

**401(k) plans**

The Company sponsors two 401(k) savings plans for employees who have completed a requisite term of service, with one covering all nonunion employees of the Company and one covering union employees of the Company. Nonunion employees of the Company may defer up to 17% of their salaries and wages with the Company matching 100% of amounts deferred, up to a maximum matching contribution of the lesser of 6% of the employee's salary or \$3,000. Union employees may defer up to 17% of their salaries and wages with the Company matching 50% of amounts deferred, up to a maximum matching contribution of 3% of the employee's salary (up to a maximum matching contribution of 6% of the employee's salary for employees hired on or after December 15, 2002). Employer-matching contributions for all plans were approximately \$3.6 million, \$3.5 million and \$2.9 million, for the years ended December 31, 2007, 2006 and 2005, respectively.

**Pension and other employee benefit plans**

The Company sponsors a defined benefit plan, which covers certain union employees who have both attained age 21 and completed one year of service. The Company has 1,014 employees who are members of the collective bargaining unit, representing approximately 21% of the Company's employees. Effective December 14, 2002, the defined benefit plan was amended to freeze participation for all employees except those hired on or before December 14, 2002. Benefits are provided at stated amounts based on years of service, as defined by the plan. Benefits vest after completion of five years of service. The Company's funding policy is to make contributions in amounts actuarially determined by an independent consulting actuary to fund the benefits to be provided. Plan assets consist of primarily equity and fixed-income securities.

On December 31, 2006, the Company adopted the recognition and disclosure provisions of SFAS No. 158. SFAS No. 158 required the Company to recognize the funded status (i.e., the difference between the fair value of plan assets and the projected benefit obligations) of its pension plan in the December 31, 2006 statement of financial position, with a corresponding adjustment to accumulated other comprehensive income, net of tax. The adjustment to accumulated other comprehensive income at adoption represents the net unrecognized actuarial losses, unrecognized prior service costs and unrecognized transition obligation remaining from the initial adoption of SFAS No. 87, all of which were previously netted against the plan's funded status in the Company's statement of financial position pursuant to the provisions of SFAS No. 87. These amounts will be subsequently recognized as net periodic pension cost pursuant to the Company's historical accounting policy for amortizing such amounts. Further, actuarial gains and losses that arise in subsequent periods and are not recognized as net periodic pension cost in the same periods will be recognized as a component of other comprehensive income. Those amounts will be subsequently recognized as a component of net periodic pension cost on the same basis as the amounts recognized in accumulated other comprehensive income at adoption of SFAS No. 158.

Included in accumulated other comprehensive income at December 31, 2007 are the following amounts that have not yet been recognized in net periodic pension cost: unrecognized prior service costs of \$0.8 million (\$0.5 million net of tax) and unrecognized actuarial losses of \$0.4 million (\$0.3 million net of tax). The prior service cost included in accumulated other comprehensive income and expected to be recognized in net periodic pension cost during the fiscal year ended December 31, 2008 is \$0.1 million (\$0.06 million net of tax).

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The funded status of the plan is as follows:

	2007	Pension Benefits 2006 (In thousands)	2005
Benefit payments			
Benefit obligation at beginning of year	\$ 30,281	\$ 28,050	\$ 26,804
Service cost	712	788	474
Interest cost	1,730	1,641	1,546
Actuarial losses (gains)	(795)	(84)	170
Amendments		967	
Benefit payments	(1,238)	(1,081)	(944)
Benefit obligation at end of year	\$ 30,690	\$ 30,281	\$ 28,050
Fair value of plan assets at beginning of year	\$ 25,388	\$ 21,552	\$ 20,272
Actual return on plan assets	1,512	2,245	742
Employer contributions	2,317	2,672	1,482
Benefit payments	(1,238)	(1,081)	(944)
Fair value of plan assets at end of year	\$ 27,979	\$ 25,388	\$ 21,552
Funded status of the plan	\$ (2,711)	\$ (4,893)	\$ (6,498)
Unrecognized amounts:			
Net losses			1,096
Adjustment required to recognize minimum liability			(1,096)
Total			
Net prepaid (accrued) benefit cost	\$ (2,711)	\$ (4,893)	\$ (6,498)
Components of net periodic benefit expense:			
Service cost	\$ 712	\$ 788	\$ 474
Interest cost	1,730	1,641	1,546
Expected return on plan assets	(2,142)	(1,839)	(1,667)
Net amortization of prior service cost	76	76	
Net periodic benefit expense	\$ 376	\$ 666	\$ 353
Weighted-average assumptions as of December 31:			
Discount rate	6.00%	5.75%	5.75%
Expected long-term rate of return on plan assets	8.25%	8.25%	8.25%

The Company anticipates making a contribution to the plan during 2008 of \$1.9 million. The Company expects its pension plan to pay benefits over the next five years and in the aggregate for the five years thereafter as follows (in thousands):

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2008	\$ 1,204
2009	1,268
2010	1,344
2011	1,410
2012	1,500
2013-2017	\$ 9,252

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**Table of Contents****GOODMAN GLOBAL, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

The weighted-average asset allocation for the Company's pension plan assets as of December 31, 2007 and 2006, as well as the target allocation for the year ended December 31, 2008, follow:

	2006	2007	Target 2008 Allocation
Equities	60%	0%	65%
Fixed income	39	0	30
Cash equivalents	1	100	5
Total	100%	100%	100%

As of December 31, 2007, the Company was in the process of changing administrators of our pension plan; therefore, all assets are shown as cash equivalents due to the transfer of those assets. The investment strategy for pension plan assets is to utilize a diversified blend of equity and fixed income portfolios to earn a long-term investment return that meets or exceeds the long-term expected rate of return for actuarial purposes of 8.25%. Active investment management strategies are used to measure each investment portfolio's returns and risk levels against applicable market indices.

To develop the expected long-term rate of return on assets assumption, the Company considers the historical returns and the future expectations for returns for each asset category, as well as the target asset allocation of the pension portfolio and the effect of periodic rebalancing.

The Company also provided unfunded postretirement benefits for union employees, covering medical benefits. The collective bargaining agreement was renegotiated in December of 2004 and these postretirement medical benefits were terminated in the new collective bargaining agreement that expires December 2009. Employees were eligible for these benefits when they reached age 55 and had completed five years of service with the Company. As of the date of termination, the plan had one participant who was grandfathered into the plan therefore any disclosures and liability are not material.

**10. Accounting for derivative instruments**

During the first quarter of 2005, the Company entered into interest rate swaps with notional amounts of \$250.0 million, which expire in 2007 and 2008, to manage variable rate exposure on the floating rate debt. During the first quarter of 2007, the interest rate swap with a notional amount of \$150.0 million matured based on its terms. The remaining swap has a fair market value as a receivable of \$0.3 million as of December 31, 2007. These interest rate derivative instruments have been designated as cash flow hedges. For these qualifying hedges, SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities* (SFAS No. 133), allows changes in the fair market value of these hedged instruments to be reported in accumulated other comprehensive income. The Company has assessed the effectiveness of the transactions that received hedge accounting treatment. Any ineffectiveness, which generally arises from minor differences between the terms of the swap and terms of the underlying hedged debt, would be recorded in other income, net in the statement of income. Any such differences, for the years ended December 31, 2007 and December 31, 2006 were immaterial.

During the second quarter of 2006, the Company entered into collars for a portion of its 2006 copper supply to substantially reduce the variability of its purchase price for this commodity. These collars expired by December 31, 2006 and were designated as cash flow hedges. For these qualifying hedges, SFAS No. 133 allows changes in the fair market value of these hedge instruments to be reported in accumulated other comprehensive income. The Company has assessed the effectiveness of the transactions that receive hedge accounting treatment

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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

and any ineffectiveness would be recorded in other (income) expense, net in the statement of income. The ineffectiveness for the year ended December 31, 2006 was a \$0.5 million loss (\$0.3 million, net of tax).

Also during the second quarter of 2006, the Company entered into collars for a portion of its 2006 aluminum supply to substantially reduce the variability of its purchase price for this commodity. These collars expired on December 31, 2006. These collars did not qualify for hedge accounting under SFAS No. 133 and, therefore, changes in its fair market value totaling \$6.3 million loss (\$3.8 million, net of tax) were recorded in other (income) expense, net in the statement of income for the year ended December 31, 2006.

During the third quarter of 2006 and throughout 2007, the Company entered into swaps for a portion of its 2007 and 2008 aluminum supply to fix the purchase price, and thereby substantially reduce the variability of its purchase price for this commodity. These swaps, which expire by December 31, 2008, have a notional amount of \$57.6 million and a fair market value as a liability of \$1.9 million as of December 31, 2007. These instruments have been designated as cash flow hedges. For these qualifying hedges, SFAS No. 133 allows changes in the fair market value of these hedge instruments to be reported in accumulated other comprehensive income. The Company has assessed the effectiveness of the transactions that receive hedge accounting treatment and any ineffectiveness would be recorded in other (income) expense, net in the statement of income. Any such differences, for the year ended December 31, 2007 were immaterial.

During the fourth quarter of 2006 and 2007, the Company entered into swaps for a portion of its 2007 and 2008 copper supply to fix the purchase price, and thereby substantially reduce the variability of its purchase price for this commodity. These swaps, which expire by December 31, 2008, have a notional amount of \$85.7 million and a fair market value as a liability of \$1.2 million as of December 31, 2007. These instruments have been designated as cash flow hedges. For these qualifying hedges, SFAS No. 133 allows changes in the fair market value of these hedge instruments to be reported in accumulated other comprehensive income. The Company has assessed the effectiveness of the transactions that receive hedge accounting treatment and any ineffectiveness would be recorded in other income, net in the statement of income. Any such differences for the year ended December 31, 2007 were immaterial.

At December 31, 2007, the fair market value of our derivatives was a liability of \$2.8 million, which is included in other accrued expenses. Included in stockholders' equity is a loss of \$2.2 million, net of tax of \$0.8 million, of which \$1.3 million is expected to be reclassified into earnings within the next twelve months in cost of sales as the underlying hedged inventory is sold and in interest expense as the interest rate swap settles.

**11. Contingent liabilities**

On October 26, 2007, a putative class action was filed on behalf of all similarly situated stockholders of the Company in the Harris County District Court, Houston, Texas, styled Call4U, Ltd. v. Carroll, Case Number 2007-66888. A similar case, styled Pipefitters Local No. 636 Defined Benefit Plan vs. Goodman, was later filed and then consolidated with the Call 4U, Ltd. case. The lawsuits named as defendants the Company all of its directors and Hellman & Friedman, and asserted claims for breach of fiduciary duty against the directors and aiding and abetting such breaches against Hellman & Friedman. The plaintiffs sought an injunction restraining the closing of the merger, reimbursement of associated attorneys' and experts' fees and other relief that the court deems proper. As described in a Form 8-K filed by the Company, on January 4, 2008 Goodman entered into a memorandum of understanding setting out an agreement in principal to settle all claims in the litigation, which settlement is subject to certain conditions precedent, including court approval.

As part of the equity contribution associated with the sale of the Amana Appliance business in July 2001, the Company agreed to indemnify Maytag for certain product liability and environmental claims. In light of these



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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

potential liabilities, the Company has purchased insurance that the Company expects will shield it from incurring material costs to such potential claims.

Pursuant to a March 15, 2001 Consent Order with the Florida Department of Environmental Protection (FDEP), our subsidiary, Goodman Distribution Southeast, Inc. (GDI Southeast) (formerly Pioneer Metals Inc.) is continuing to investigate and pursue, under FDEP oversight, the delineation of groundwater contamination at and around the GDI Southeast facility in Fort Pierce, Florida. Remediation has not begun. The contamination was discovered through environmental assessments conducted in connection with a Company subsidiary's acquisition of the Fort Pierce facility in 2000 and was reported to FDEP, giving rise to the Consent Order.

The ultimate cost for the investigation, remediation and monitoring of the site cannot be predicted with certainty due to the variables relating to the contamination and the appropriate remediation methodology, the evolving nature of remediation technologies and governmental regulations and the inability to determine the extent to which contribution will be available from other parties. All of these factors are taken into account to the extent possible in estimating potential liability. A reserve appropriate for the probable remediation costs, which are reasonably susceptible to estimation, has been established.

Based on analyses of currently available information, it is probable that costs associated with the site will be \$0.7 million. We reserved approximately \$0.7 million as of December 31, 2007 in accordance with SFAS No. 5, *Accounting for Contingencies*, although it is possible that costs could exceed this amount by up to approximately \$2.8 million. Management believes any liability arising from potential environmental obligations is not likely to have a material adverse effect on our liquidity or financial position as such obligations could be satisfied over a period of years. Nevertheless, future developments could require material changes in the recorded reserve amount.

We believe this contamination predated GDI Southeast's involvement with the Fort Pierce facility and GDI Southeast's operation at this location has not caused or contributed to the contamination. Accordingly, the Company is pursuing litigation against former owners of the Fort Pierce facility in an attempt to recover its costs. At this time, we cannot estimate probable recoveries from this litigation.

As a result of a fire in one of the Company's manufacturing facilities in 2006, the Company settled and recorded a business interruption insurance claim of approximately \$2.8 million as a reduction of its cost of goods sold in the statement of income for the fourth quarter of 2006. Such claim was collected in full in January 2007.

The Company is party to a number of other pending legal and administrative proceedings and is subject to various regulatory and compliance obligations. The Company believes that these proceedings and obligations will not have a materially adverse effect on its consolidated financial condition, cash flows or results of operations. To the extent required, the Company has established reserves that it believes to be adequate based on current evaluations and its experience in these types of matters. Nevertheless, an unexpected outcome in any such proceeding could have a material adverse impact on the Company's consolidated results of operations in the period in which it occurs. Moreover, future adverse developments could require material changes in the recorded reserve amounts.

**12. Subsequent Event (unaudited)**

In order to capitalize on the long term growth prospects of the business, on October 21, 2007, Chill Holdings, Inc. (Parent), Chill Acquisition, Inc., a subsidiary of Parent (which we refer to as Merger Sub), and Goodman Global, Inc. entered into an agreement and plan of merger (the Merger Agreement) pursuant to which Merger Sub merged with and into Goodman Global, Inc. on February 13, 2008. Merger Sub was incorporated on October 15, 2007 for the purpose of acquiring Goodman Global, Inc. and did not have any operations prior to

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**GOODMAN GLOBAL, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

February 13, 2008 other than in connection with the Goodman acquisition. Chill Holdings, Inc., our Parent, is controlled by investment funds affiliated with Hellman & Friedman LLC, and other stockholders include investment funds affiliated with GSO, Farallon Capital Partners and AlInvest Partners, along with certain other investors that GSO syndicated their investments to, as well as certain members of management. These entities invested a total of \$1,278.2 million in the Parent in connection with the Merger.

On February 13, 2008, each share of the Company's common stock issued and outstanding immediately prior to the effective time of the Merger was converted into the right to receive \$25.60 in cash. In addition, all outstanding options to acquire Goodman common stock issued pursuant to Goodman's equity plans, whether or not vested, became fully vested as of the time immediately prior to the Merger and were cancelled and converted into cash payments, without interest, equal to the product of (1) the number of shares of Goodman Global, Inc. common stock subject to each option as of the effective time of the Merger multiplied by (2) the excess, if any, of \$25.60 over the exercise price per share of common stock subject to such option (other than in the case of certain options held by members of our senior management who exchanged a portion of their vested options for new vested options in Parent). As a result of the transaction, 1.7 million options vested and thus the Company recognized stock option expense of \$6.3 million.

On January 10, 2008, we commenced cash tender offers to purchase Goodman Global Holdings, Inc.'s outstanding 7-7/8% Senior Subordinated Notes due 2010 (\$400 million aggregate principal amount outstanding) and Floating Rate Notes due 2010 (\$179.3 million aggregate principal amount outstanding) (together, the Existing Notes). On January 25, 2008, we executed the proposed amendments to the indentures for the Existing Notes, which amendments became operative immediately prior to the Merger. On February 13, 2008, we accepted the tenders and made payment to holders of the Existing Notes the tender offer consideration and consent payment, called for redemption, deposited the redemption payment with the trustee in respect of untendered Existing Notes and discharged the indentures governing the Existing Notes.

In addition, on February 13, 2008, we repaid the \$76.1 million outstanding under our then-existing term credit facility and \$11.5 million outstanding under our then-existing Revolving Credit Facility.

On February 13, 2008, Merger Sub issued and sold \$500.0 million of notes and borrowed (1) \$800.0 million under a new senior secured term credit agreement with Barclays Capital and Calyon New York Branch, as joint lead arrangers, Barclays Capital, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, General Electric Capital Corporation, as administrative agent and collateral agent, and the lenders from time to time party thereto, and (2) \$105.0 million under a new asset-based revolving credit agreement with Barclays Capital and General Electric Capital Corporation, as joint lead arrangers, Barclays Capital, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, General Electric Capital Corporation, as administrative agent and collateral agent, General Electric Capital Corporation, as letter of credit issuer, and the lenders from time to time party thereto.

Under the registration rights agreement, if Goodman Global, Inc. fails to obtain effectiveness of the exchange offer registration statement on or prior to 270 days after the issue date of the outstanding notes, or complete the exchange offer within 30 business days of its effectiveness (other than in the event we file a shelf registration statement), or if the shelf registration statement, if required thereby, is not declared effective, on or prior to 480 days after the issue date of the outstanding notes or if the shelf registration statement ceases to be effective at any time prior to the one year anniversary of its initial effectiveness, the interest rate on the outstanding notes will be increased by (x) 0.25% per annum for the first 90-day period immediately following the target registration date and (y) an additional 0.25% per annum with respect to each subsequent 90-day period, in each case, until the exchange offer is completed or the shelf registration statement, if required, is declared

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effective by the SEC or the outstanding notes cease to constitute transfer restricted notes, up to a maximum of 1.00% per annum of additional interest. The maximum annual interest expense related to the failure to obtain effectiveness of the exchange offer registration statement would be \$5.0 million.

The Merger, the repurchase of the Existing Notes, the repayment of the existing term credit facility and Revolving Credit Facility and the fees and expenses relating to the Transactions were financed by borrowings under our new senior secured term credit agreement, our new asset-based revolving credit agreement, the issuance of the notes, the equity investments and participations described above and Goodman's cash on hand at the closing of the Merger.

The Merger is being accounted for under the purchase method of accounting. Accordingly the results of operations will be included in the consolidated financial statements from the effective date of the Merger and are not reflected in the 2007 consolidated financial statements. The Company has allocated the purchase price to the acquired assets and liabilities assumed at their estimated fair market value considering a number of factors. The excess of the cost of the Merger over the fair value of the net assets acquired is recorded as goodwill. The increase in basis of the assets will result in non-cash charges in future periods, principally related to the step-up in the value of inventory, property, plant and equipment and intangible assets. The incremental goodwill as a result of the Merger will not be deductible for federal income tax purposes. The initial purchase price allocation made by the Company is preliminary as certain appraisals need to be finalized and subject to change for a period on one year following the Merger. The following table summarizes the estimated fair values of the assets and liabilities as of February 13, 2008, the date of the Merger (in thousands):

Current Assets	\$ 631,829
Property, Plant & Equipment	200,328
Deferred Financing Costs	44,522
Intangible Assets	785,000
Goodwill	1,370,545
<b>Total Assets Acquired</b>	<b>\$ 3,032,224</b>
Current Liabilities	215,399
Other liabilities	54,289
Deferred Taxes	111,289
Debt	1,373,000
<b>Total Liabilities Assumed</b>	<b>\$ 1,753,977</b>
<b>Net Assets Acquired</b>	<b>\$ 1,278,247</b>

The preliminary components of Intangible Assets listed in the above table as of the Merger were based on an independent third party appraisal and will be amortized on a straight line basis over their estimated useful lives with no residual value as follows:

	Fair value (in millions)	Useful life (years)
Customer Relationships	\$ 530,000	40
Trade Names Amana	40,000	15
Trade Names Other	175,000	Indefinite
Technology	40,000	10

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Unaudited pro forma operating results of the Company assuming the Merger was completed on January 1, 2007, is summarized as follows (in thousands). These pro forma financial statements do not include approximately \$78.5 million of expenses that were incurred as a result of the Merger that will be included in the predecessor company financial statements.

	<b>2007</b>
<b>Sales</b>	\$ 1,935,690
<b>Net loss</b>	\$ (1,932)

**13. Quarterly financial information (unaudited)**

Unaudited quarterly information for the years ended December 31, 2007 and 2006, respectively (in thousands) is stated below.

**Quarters ended 2007**

	<b>First Quarter</b>	<b>Second Quarter</b>	<b>Third Quarter</b>	<b>Fourth Quarter</b>
Sales, net	\$ 380,274	\$ 563,722	\$ 565,515	\$ 426,179
Operating profit	22,775	78,580	83,993	41,834
Net income	4,631	38,971	43,107	14,670
Net income available to common shareholders	\$ 4,631	\$ 38,971	\$ 43,107	\$ 14,670

**Quarters ended 2006**

	<b>First Quarter</b>	<b>Second Quarter(1)</b>	<b>Third Quarter</b>	<b>Fourth Quarter</b>
Sales, net	\$ 380,688	\$ 504,454	\$ 517,227	\$ 392,384
Operating profit	32,940	43,737	66,858	37,909
Net income	8,414	9,628	32,213	13,912
Net income available to common shareholders	\$ 2,522	\$ 8,898	\$ 32,213	\$ 13,912

- (1) For the quarter ended June 30, 2006, the operating profit reflects the \$16.1 million related to the Company's initial public offering in April of 2006.

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# **Goodman Global, Inc.**

## **Offer to Exchange**

**\$500,000,000 aggregate principal amount of its 13.50%/14.00% Senior Subordinated Notes due 2016, which have been registered under the Securities Act of 1933, for any and all of its outstanding 13.50%/14.00% Senior Subordinated Notes due 2016.**

**Until the date that is 90 days from the date of this prospectus, all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters with respect to their unsold allotments or subscriptions or otherwise.**

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**PART II**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 20. Indemnification of Directors and Officers.  
Delaware Registrants**

(a) Goodman Global, Inc., Goodman Global Holdings, Inc. and Quietflex Holding Company are each incorporated under the laws of Delaware.

Section 145 of the Delaware General Corporation Law (the "DGCL") grants each corporation organized thereunder the power to indemnify any person who is or was a director, officer, employee or agent of a corporation or enterprise against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, by reason of being or having been in any such capacity, if he acted in good faith in a manner reasonably believed to be in, or not opposed to, the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful.

Section 102(b)(7) of the DGCL enables a corporation in its certificate of incorporation or an amendment thereto to eliminate or limit the personal liability of a director to the corporation or its stockholders of monetary damages for violations of the director's fiduciary duty of care, except (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL (providing for liability of directors for unlawful payment of dividends or unlawful stock purchases or redemptions) or (iv) for any transaction from which a director derived an improper personal benefit.

In accordance with these provisions, the articles of incorporation and the bylaws of Goodman Global, Inc. provide for indemnification of any person who is, was or shall be a director, officer, employee or agent of the corporation, to the full extent permitted by the DGCL, as amended from time to time. The articles of incorporation and bylaws of Goodman Global Holdings, Inc. provide for indemnification of any person who is, was or shall be a director, officer, employee or agent of the corporation, to the full extent permitted by the DGCL. The articles of incorporation and bylaws of Quietflex Holding Company are silent as to indemnification.

(b) Goodman II Holdings Company, L.L.C., Goodman Manufacturing I LLC, Goodman Manufacturing II LLC, Goodman Holding Company, L.L.C. and Goodman Canada, L.L.C, are each limited liability companies organized under the laws of Delaware.

Section 18-108 of the Delaware Limited Liability Company Act (the "DLLCA") empowers a Delaware limited liability company to indemnify and hold harmless any member or manager of the limited liability company from and against any and all claims and demands whatsoever.

In accordance with this provision, the limited liability company agreements of Goodman II Holdings Company, L.L.C., Goodman Manufacturing I LLC, Goodman Manufacturing II LLC and Goodman Holding Company, L.L.C. are silent as to indemnification. The limited liability company agreement of Goodman Canada, L.L.C. states that any member or officer shall be indemnified to the fullest extent permitted by applicable law for any act or omission committed in good faith and in a manner reasonably believed to be within the scope of his authority, but excluding indemnification for willful misconduct.

(c) Goodman Company, L.P. is a limited partnership organized under the laws of Delaware.

Section 17-108 of the Delaware Revised Uniform Limited Partnership Act (the "Act") permits a limited partnership to indemnify and hold harmless any partner or other person from and against any and all claims and demands whatsoever.

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The partnership agreement of Goodman Company, L.P. allows the partnership to indemnify the general partner to the fullest extent permitted by the Act, including for negligence or gross negligence, but prohibits indemnification for bad faith or breach of the partnership agreement.

### **Florida Registrant**

(a) Goodman Distribution Southeast, Inc. is incorporated under the laws of Florida.

Section 607.0831 of the Florida Business Corporation Act (the "FBCA") provides, among other things, that a director is not personally liable for monetary damages to a company or any other person for any statement, vote, decision or failure to act by the director, regarding corporate management or policy, unless the director breached or failed to perform his or her duties as a director and such breach or failure constitutes (1) a violation of criminal law, unless the director had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his or her conduct was unlawful; (2) a transaction from which the director derived an improper personal benefit; (3) a circumstance under which the liability provisions of Section 607.0834 of the FBCA (relating to the liability of the directors for improper distributions) are applicable; (4) willful misconduct or a conscious disregard for the best interest of the company in the case of a proceeding by or in the right of the company to procure a judgment in its favor or by or in the right of a stockholders or (5) recklessness or an act or omission in bad faith or with malicious purpose or with wanton and willful disregard of human rights, safety or property, in a proceeding by or in the right of someone other than such company or a stockholder.

Section 607.0850 of the FBCA authorizes, among other things, a company to indemnify any person who was or is a party to any proceeding (other than an action by or in the right of the company) by reason of the fact that he is or was a director, officer, employee or agent of the company (or is or was serving at the request of the company in such a position for any entity) against liability incurred in connection with such proceedings, if he or she acted in good faith and in a manner reasonably believed to be in the best interests of the company and, with respect to criminal proceedings, had no reasonable cause to believe his or her conduct was unlawful.

The FBCA requires that a director, officer or employee be indemnified for actual and reasonable expenses (including attorneys' fees) to the extent that he or she has been successful on the merits or otherwise in the defense of any proceeding. Florida law also allows expenses of defending a proceeding to be advanced by a company before the final disposition of the proceedings, provided that the officer, director or employee undertakes to repay such advance if it is ultimately determined that indemnification is not permitted.

The bylaws of Goodman Distribution Southeast, Inc. allow for indemnification of its officers and directors to the fullest extent permitted by the FBCA.

### **Texas Registrants**

(a) Goodman Appliance Holding Company, Goodman Distribution, Inc., Goodman Holding Company and Goodman Sales Company are each incorporated under the laws of Texas.

Article 2.02 1 of the Texas Business Corporation Act (the "TBCA") permits a Texas corporation to indemnify any present or former director, officer, employee or agent of the corporation against judgments, penalties, fines, settlements and reasonable expenses incurred in connection with a proceeding in which any such person was, is or is threatened to be, made a party by reason of holding such office or position, only if the person conducted himself in good faith and reasonably believed: (a) in the case of conduct in his official capacity as a director of the corporation, that his conduct was in the corporation's best interests; and (b) in all other cases, that his conduct was at least not opposed to the corporation's best interests and (c) in the case of any criminal proceeding, had no reasonable cause to believe his conduct was unlawful. However, such reimbursement of reasonable expenses is limited to those actually incurred where a person is found liable on the basis that a personal benefit was improperly received or the person is found liable in a derivative suit brought on behalf of



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the corporation and the person was not liable for willful or intentional misconduct. Under the TBCA, a director or officer must be indemnified in cases in which he is wholly successful on the merits or in the defense of the proceedings. The TBCA authorizes corporations to maintain insurance to cover indemnification expenses on behalf of any person who is or was a director, officer, agent or employee of the corporation or was serving at the request of the corporation, regardless of whether the corporation would have the power to indemnify such person against liability under Article 2.02 1 of the TBCA.

The articles of incorporation and bylaws of Goodman Appliance Holding Company provide that the corporation shall indemnify its present and former officers and directors to the fullest extent permitted by the TBCA. The articles of incorporation and bylaws of Goodman Distribution, Inc., Goodman Holding Company and Goodman Sales Company are silent as to indemnification of directors; however, the bylaws provide that a director will not be liable to the corporation or its shareholders for acts or omissions in his capacity as a director, except for breach of the director's duty of loyalty, acts or omissions not in good faith or involving intentional misconduct or a knowing violation of the law, transactions from which an improper benefit was received or acts or omissions for which liability of the director is expressly provided by law.

(b) Nitek Acquisition Company, L.P., Quietflex Manufacturing Company, L.P. and Goodman Manufacturing Company, L.P. are each limited partnerships registered under the laws of Texas.

Under the Texas Revised Limited Partnership Act (the "TRLPA"), a general partner must be indemnified by the limited partnership in cases in which the general partner is wholly successful on the merits or in the defense of the proceedings. Section 11.02 of the TRLPA provides that a limited partnership may indemnify a person who was, is or is threatened to be named a defendant in a proceeding only if that person (1) acted in good faith; (2) reasonably believed: (A) in the case of conduct in the person's official capacity as a general partner of the limited partnership, that the person's conduct was in the limited partnership's best interests and (B) in all other cases, that the person's conduct was at least not opposed to the limited partnership's best interests and (3) in the case of a criminal proceeding, had no reasonable cause to believe that the person's conduct was unlawful. If a person is found liable to the limited partnership or the limited partners or is found liable on the basis that the person improperly received personal benefit, the indemnification: (1) is limited to reasonable expenses actually incurred by the person in connection with the proceeding and (2) shall not be made in relation to a proceeding in which the person has been found liable for willful or intentional misconduct in the performance of the person's duty to the limited partnership or the limited partners. The TRLPA allows a Texas limited partnership to indemnify anyone who was, is or is threatened to be made a defendant or respondent in a proceeding and allows a limited partnership to purchase and maintain liability insurance, whether or not the partnership would have the power to indemnify such person against such liability.

The partnership agreement of Nitek Acquisition Company, L.P. allows the partnership to indemnify the general partner to the fullest extent permitted by the TRLPA, including for negligence or gross negligence but prohibits indemnification for bad faith or breach of the partnership agreement. The partnership agreements of both Quietflex Manufacturing Company, L.P. and Goodman Manufacturing Company, L.P. allow the partnership to indemnify the general partner to the fullest extent permitted by the TRLPA, excluding indemnification for proven fraud, gross negligence, willful misconduct or proven breach of the partnership agreement.

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**Item 21. Exhibits and Financial Statement Schedules.**

(a) Exhibits

<b>Exhibit No.</b>	<b>Description of Exhibit</b>
2.1	Asset Purchase Agreement, dated November 18, 2004, by and among Goodman Global Holdings, Inc., Frio Holdings, Inc. and Frio, Inc. (incorporated by reference to Exhibit 2.1 on Goodman Global Holdings, Inc.'s Form S-4, filed with the SEC on September 21, 2005, File No. 333-128462)
2.2	Agreement and Plan of Merger, dated as of October 21, 2007, by and among Chill Holdings, Inc., Chill Acquisition, Inc. and Goodman Global, Inc. (incorporated by reference to Exhibit 2.1 on Goodman Global, Inc.'s Form 8-K, filed with the SEC on October 25, 2007)
2.3	Amendment No. 1 to Agreement and Plan of Merger, dated as of January 3, 2008, by and among Chill Holdings, Inc., Chill Acquisition, Inc. and Goodman Global, Inc. (incorporated by reference to Exhibit 2.1 on Goodman Global, Inc.'s Form 8-K, filed with the SEC on January 4, 2008)
3.1**	Certificate of Amendment of Certificate of Incorporation of Chill Holdings, Inc.
3.2**	Certificate of Incorporation of Chill Holdings, Inc.
3.3**	By-laws of Chill Holdings, Inc.
3.4**	Certificate of Incorporation of Chill Acquisition, Inc.
3.5**	By-laws of Chill Acquisition, Inc.
3.6**	Amended and Restated Certificate of Incorporation of Goodman Global, Inc.
3.7**	Amended and Restated Bylaws of Goodman Global, Inc.
3.8**	Certificate of Incorporation of Frio, Inc.
3.9**	Certificate of Amendment of Certificate of Incorporation of Frio, Inc.
3.10**	Bylaws of Frio, Inc.
3.11**	Certificate of Incorporation of Quietflex Holding Company
3.12**	Bylaws of Quietflex Holding Company
3.13**	Certificate of Formation of Goodman Manufacturing I LLC
3.14**	Limited Liability Company Agreement of Goodman Manufacturing I LLC
3.15**	Certificate of Formation of Goodman Manufacturing II LLC
3.16**	Limited Liability Company Agreement of Goodman Manufacturing II LLC
3.17**	Certificate of Formation of Goodman Holding Company, L.L.C.
3.18**	Amended and Restated Limited Liability Company Agreement of Goodman Holding Company, L.L.C.
3.19**	Certificate of Formation of Goodman Canada, L.L.C.
3.20**	Amended and Restated Limited Liability Company Agreement of Goodman Canada, L.L.C.
3.21**	Certificate of Formation of Goodman II Holdings Company, L.L.C.
3.22**	Amended and Restated Limited Liability Company Agreement of Goodman II Holdings Company, L.L.C.
3.23**	Certificate of Limited Partnership of RAI Merger Limited Partnership
3.24**	Certificate of Amendment of Certificate of Limited Partnership of RAI Merger Limited Partnership

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<b>Exhibit No.</b>	<b>Description of Exhibit</b>
3.25**	Certificate of Amendment of Certificate of Limited Partnership of The Amana Company, L.P.
3.26**	Certificate of Amendment of Certificate of Limited Partnership of Amana Company, L.P.
3.27**	Agreement of Limited Partnership of RAI Merger Limited Partnership
3.28**	Amended and Restated Articles of Incorporation of Pioneer Metals, Inc.
3.29**	Articles of Amendment to Articles of Incorporation of Goodman Distribution Southeast, Inc.
3.30**	Amended and Restated Bylaws of Goodman Distribution Southeast, Inc.
3.31**	Articles of Incorporation of Amana Holding Company
3.32**	Bylaws of Goodman Appliance Holding Company
3.33**	Articles of Incorporation of Goodman Distribution Corp.
3.34**	Articles of Amendment of Articles of Incorporation of Goodman Distribution Corp.
3.35**	Articles of Amendment to the Articles of Incorporation of American Distributors, Inc.
3.36**	Articles of Amendment to the Articles of Incorporation of American Distributors, Inc.
3.37**	Bylaws of American Distributors, Inc.
3.38**	Articles of Incorporation of Goodman Holding Company
3.39**	Bylaws of Goodman Holding Company
3.40**	Articles of Incorporation of GMC Sales Corp.
3.41**	Articles of Amendment to the Articles of Incorporation of GMC Sales Corp.
3.42**	Bylaws of GMC Sales Corp.
3.43**	Certificate of Limited Partnership of Goodman Manufacturing Company, L.P.
3.44**	Amended and Restated Agreement of Limited Partnership of Goodman Manufacturing Company, L.P.
3.45**	Certificate of Limited Partnership of Quietflex Manufacturing Company, L.P.
3.46**	Agreement of Limited Partnership of Quietflex Manufacturing Company, L.P.
3.47**	First Amendment to Agreement of Limited Partnership of Quietflex Manufacturing Company, L.P.
3.48**	Certificate of Limited Partnership of Nitek Acquisition Company, L.P.
3.49**	Agreement of Limited Partnership of Nitek Acquisition Company, L.P.
4.1	Indenture, dated as of February 13, 2008, by and between Chill Acquisition, Inc., to be merged with and into Goodman Global, Inc., and Wells Fargo Bank, National Association, as Trustee
4.2	Guarantor Supplemental Indenture, dated as of February 13, 2008, among the Guaranteeing Subsidiaries of Goodman Global, Inc., as identified therein, and Wells Fargo Bank, National Association, as Trustee
4.3	Form of Exchange Note (included in Exhibit 4.1)
4.4	Form of 13.50%/14.00% Note (included in Exhibit 4.1)
4.5	Exchange and Registration Rights Agreement, dated February 13, 2008, by and among Chill Acquisition, Inc., GSO Domestic Capital Funding LLC, GSO COF Facility LLC, GSO Origination Funding Partners LP, Farallon Funding, L.L.C., AlpInvest Partners Mezzanine 2007 C.V., KKR Financial Holdings III, LLC and CMP II Initial Holdings, L.L.C.

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<b>Exhibit No.</b>	<b>Description of Exhibit</b>
4.6	Joinder and Assumption Agreement, dated February 13, 2008, among Goodman Global, Inc., the Initial Guarantors listed therein, GSO Domestic Capital Funding LLC, GSO COF Facility LLC, GSO Origination Funding Partners LP, Farallon Funding, L.L.C., AlInvest Partners Mezzanine 2007 C.V., KKR Financial Holdings III, LLC and CMP II Initial Holdings, L.L.C.
5.1***	Opinion of Simpson Thacher & Bartlett LLP
5.2***	Opinion of Akerman Senterfitt
5.3***	Opinion of Andrews Kurth LLP
10.1	\$800,000,000 Credit Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., Chill Acquisition Inc., which merged with and into Goodman Global, Inc., and Barclays Capital, the investment banking division of Barclays Bank Plc and Calyon New York Branch, as Joint Lead Arrangers, and Barclays Capital, the investment banking division of Barclays Bank Plc, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, and General Electric Capital Corporation, as the Administrative and Collateral Agent
10.2	Revolving Credit Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., Chill Acquisition Inc., which merged with and into Goodman Global, Inc., and Barclays Capital, the investment banking division of Barclays Bank Plc and General Electric Capital Corporation, as Joint Lead Arrangers, Barclays Capital, the investment banking division of Barclays Bank Plc, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, General Electric Capital Corporation, as the Administrative, Collateral Agent, Swingline Lender and Letter of Credit Issuer
10.3	Intercreditor Agreement, dated February 13, 2008, between General Electric Capital Corporation, as collateral agent for the Term Loan Secured Parties and the Revolving Secured Parties referred to therein and acknowledged by Chill Holdings, Inc., Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and certain subsidiaries of Goodman Global, Inc.
10.4	Term Loan Security Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.5	Revolving Security Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.6	Term Loan Guarantee, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.7	Revolving Guarantee, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.8	Term Loan Pledge Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein

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<b>Exhibit No.</b>	<b>Description of Exhibit</b>
10.9	Revolving Pledge Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.10* **	Chill Holdings, Inc. 2008 Stock Incentive Plan
10.11* **	Chill Holdings, Inc. 2008 Annual Incentive Compensation Plan and form of award agreement thereunder
10.12 *	Employment Agreement, dated February 13, 2008, between Chill Acquisition, Inc. and Charles A. Carroll
10.13 *	Employment Agreement, dated February 13, 2008, between Chill Acquisition, Inc. and Lawrence M. Blackburn
10.14	Stockholders Agreement, dated February 13, 2008 by and among Chill Holdings, Inc., Chill Acquisition, Inc., Hellman & Friedman Capital Partners VI, L.P., Hellman & Friedman Capital Partners VI (Parallel), L.P., Hellman & Friedman Capital Associates VI, L.P., Hellman & Friedman Capital Executive VI, L.P., H&F Chill Partners, L.P., GSO Special Situations Fund LP, GSO Origination Funding Partners LP, GSO COF Facility LLC, Farallon Capital Institutional Partners, L.P., Farallon Capital Institutional Partners II, L.P., Farallon Capital Institutional Partners III, L.P., Tincum Partners, L.P., AlpInvest Partners Mezzanine 2007 C.V. and CMP II Initial Holdings, L.L.C.
10.15 *	Management Stockholders Agreement, dated February 13, 2008 by and among Chill Holdings, Inc., Chill Acquisition, Inc., Hellman & Friedman Capital Partners VI, L.P., Hellman & Friedman Capital Partners VI (Parallel), L.P., Hellman & Friedman Capital Associates VI, L.P., Hellman & Friedman Capital Executives VI, L.P., and H&F Chill Partners, L.P. and each of the Management Stockholder identified therein
10.16	Lease Agreement, dated December 1, 1994, between the Daniel Childrens 1991 Trust, the Lucy Hughes Abell 1991 Trust, the Sam Houston Abell 1991 Trust, the JBG Childrens 1991 Trust, the Hutton Gregory Goodman 1990 Trust, the Hannah Jane Goodman 1990 Trust, the Mary Jane Goodman 1990 Trust and the Harold Viterbo Goodman, II 1990 Trust and Goodman Manufacturing Company, L.P. (incorporated by reference to Exhibit 10.35 on Goodman Global, Inc. s Amendment No. 1 to Form S-1, filed with the SEC on March 13, 2006, File No. 333-131597)
10.17 *	Charles A. Carroll Form of Option Agreement
10.18 *	Form of Equity Contribution Agreement
10.19 *	Form of Option Roll Over Agreement
10.20 *	Form of Severance Agreement
10.21 *	Form of Indemnification Agreement
10.22 *	Form of Time-Vested Option Agreement
10.23 *	Form of Performance-Vested Option Agreement
10.24* **	Employment Agreement, dated April 17, 2008 between Goodman Global, Inc. and David L. Swift
10.25* **	Amendment Number One to Employment Agreement dated February 13, 2008 between Chill Acquisition, Inc. and Charles A. Carroll
12.1	Statement of Computation of Ratio of Earnings to Fixed Charges
21.1	Subsidiaries of the Registrant

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<b>Exhibit No.</b>	<b>Description of Exhibit</b>
23.1	Consent of Simpson Thacher and Bartlett LLP (included as part of its opinion filed as Exhibit 5.1 hereto)
23.2****	Consent of Ernst & Young LLP
24.1**	Power of Attorney of David L. Swift
25.1	Statement of Eligibility of Trustee
99.1	Form of Letter of Transmittal
99.2	Form of Notice to Clients
99.3	Form of Letter to Brokers, Dealers, Commercial banks, Trust Companies and other Nominees
99.4	Form of Notice of Guaranteed Delivery

Previously filed with Registration Statement on Form S-4 on April 15, 2008.

\* Management contract or compensatory plan or arrangement.

\*\* Previously filed with Amendment No. 1 to the Registration Statement on Form S-4 on May 30, 2008.

\*\*\* Previously filed with Amendment No. 2 to the Registration Statement on Form S-4 on June 17, 2008.

\*\*\*\* Filed herewith.

**Item 22. Undertakings.**

(a) Each of the undersigned registrants hereby undertakes:

(1) to file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amend) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

(2) that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof;

(3) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering;

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(4) that, for the purpose of determining liability under the Securities Act of 1933 to any purchaser, if the registrants are subject to Rule 430C, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness; *provided, however*, that no statement made in a

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registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use; and

(5) that, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, each of the undersigned registrants undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, each of the undersigned registrants will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrants relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrants or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrants or its or their securities provided by or on behalf of an undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) Each of the undersigned registrants hereby undertakes to respond to requests for information that is incorporated by reference into the prospectus pursuant to Item 4, 10(b) 11 or 13 of Form S-4, within one business day of receipt of such request, and to send the incorporated documents by first class mail or equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(c) Each of the undersigned registrants hereby undertakes to supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in the registration statement when it became effective.

(d) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.



**Table of Contents****SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 19, 2008.

GOODMAN GLOBAL, INC.

By: /s/ LAWRENCE M. BLACKBURN  
 Name: LAWRENCE M. BLACKBURN  
 Title: Executive Vice President and Chief  
 Financial Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ * DAVID L. SWIFT	President, Chief Executive Officer and Director	June 19, 2008
/s/ * LAWRENCE M. BLACKBURN	Executive Vice President, Chief Financial Officer and Director	June 19, 2008
/s/ * MARK M. DOLAN	Vice President, Corporate Controller and Treasurer	June 19, 2008
/s/ * CHARLES A. CARROLL	Chairman of the Board of Directors	June 19, 2008
/s/ * PHILIP U. HAMMARSKJOLD	Director	June 19, 2008
/s/ * ROBERT B. HENSKE	Director	June 19, 2008
/s/ * ERIK RAGATZ	Director	June 19, 2008
/s/ * SALONI K. SARAIYA	Director	June 19, 2008

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By: /s/ BEN D. CAMPBELL  
Name: BEN D. CAMPBELL

Attorney-in-Fact

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 19, 2008.

GOODMAN GLOBAL HOLDINGS, INC.

GOODMAN APPLIANCE HOLDING COMPANY

GOODMAN HOLDING COMPANY

By: /s/ LAWRENCE M. BLACKBURN  
 Name: LAWRENCE M. BLACKBURN  
 Title: Executive Vice President and Chief  
 Financial Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ * DAVID L. SWIFT	President, Chief Executive Officer and Director	June 19, 2008
/s/ * LAWRENCE M. BLACKBURN	Executive Vice President, Chief Financial Officer and Director	June 19, 2008
/s/ * MARK M. DOLAN	Vice President, Corporate Controller and Treasurer	June 19, 2008
/s/ * BEN D. CAMPBELL	Executive Vice President, General Counsel, Secretary and Director	June 19, 2008
/s/ * CHARLES A. CARROLL	Chairman of the Board of Directors	June 19, 2008
By: /s/ BEN D. CAMPBELL Name: BEN D. CAMPBELL	Attorney-in-Fact	

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 19, 2008.

GOODMAN DISTRIBUTION, INC.

GOODMAN DISTRIBUTION SOUTHEAST, INC.

GOODMAN SALES COMPANY

By: /s/ LAWRENCE M. BLACKBURN  
 Name: LAWRENCE M. BLACKBURN  
 Title: Executive Vice President and Chief  
 Financial Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ * DAVID L. SWIFT	President, Chief Executive Officer and Director	June 19, 2008
/s/ * LAWRENCE M. BLACKBURN	Executive Vice President, Chief Financial Officer and Director	June 19, 2008
/s/ * MARK M. DOLAN	Vice President, Corporate Controller and Treasurer	June 19, 2008
/s/ * BEN D. CAMPBELL	Executive Vice President, General Counsel, Secretary and Director	June 19, 2008
/s/ * CHARLES A. CARROLL	Chairman of the Board of Directors	June 19, 2008
By: /s/ BEN D. CAMPBELL Name: BEN D. CAMPBELL	Attorney-in-Fact	

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 19, 2008.

GOODMAN CANADA, L.L.C.  
 BY ITS SOLE MEMBER,  
 GOODMAN MANUFACTURING COMPANY, L.P.  
 BY ITS GENERAL PARTNER,  
 GOODMAN HOLDING COMPANY  
 By: /s/ LAWRENCE M. BLACKBURN  
 Name: LAWRENCE M. BLACKBURN  
 Title: Executive Vice President and Chief  
 Financial Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ * DAVID L. SWIFT	President, Chief Executive Officer and Director	June 19, 2008
/s/ * LAWRENCE M. BLACKBURN	Executive Vice President, Chief Financial Officer and Director	June 19, 2008
/s/ * MARK M. DOLAN	Vice President, Corporate Controller and Treasurer	June 19, 2008
/s/ * BEN D. CAMPBELL	Executive Vice President, General Counsel, Secretary and Director	June 19, 2008
/s/ * CHARLES A. CARROLL	Chairman of the Board of Directors	June 19, 2008

By: /s/ BEN D. CAMPBELL Attorney-in-Fact

Name: BEN D. CAMPBELL

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 19, 2008.

QUIETFLEX HOLDING COMPANY

By: /s/ LAWRENCE M. BLACKBURN  
 Name: LAWRENCE M. BLACKBURN  
 Title: Executive Vice President and Chief  
 Financial Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ *  DAVID L. SWIFT	President, Chief Executive Officer and Director	June 19, 2008
/s/ *  LAWRENCE M. BLACKBURN	Executive Vice President, Chief Financial Officer and Director	June 19, 2008
/s/ *  MARK M. DOLAN	Vice President, Corporate Controller and Treasurer	June 19, 2008
/s/ *  BEN D. CAMPBELL	Executive Vice President, General Counsel, Secretary and Director	June 19, 2008
/s/ *  CHARLES A. CARROLL	Chairman of the Board of Directors	June 19, 2008

By: /s/ BEN D. CAMPBELL  
 Name: BEN D. CAMPBELL  
 Attorney-in-Fact

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 19, 2008.

GOODMAN MANUFACTURING I LLC

GOODMAN MANUFACTURING II LLC

GOODMAN II HOLDINGS COMPANY, L.L.C.

BY ITS SOLE MEMBER,

GOODMAN GLOBAL HOLDINGS, INC.

By: /s/ LAWRENCE M. BLACKBURN  
 Name: LAWRENCE M. BLACKBURN  
 Title: Executive Vice President and Chief  
 Financial Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ * DAVID L. SWIFT	President, Chief Executive Officer and Director	June 19, 2008
/s/ * LAWRENCE M. BLACKBURN	Executive Vice President, Chief Financial Officer and Director	June 19, 2008
/s/ * MARK M. DOLAN	Vice President, Corporate Controller and Treasurer	June 19, 2008
/s/ * BEN D. CAMPBELL	Executive Vice President, General Counsel, Secretary and Director	June 19, 2008
/s/ * CHARLES A. CARROLL	Chairman of the Board of Directors	June 19, 2008

By: /s/ BEN D. CAMPBELL Attorney-in-Fact



Name: BEN D. CAMPBELL

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 19, 2008.

NITEK ACQUISITION COMPANY, L.P.  
 GOODMAN MANUFACTURING COMPANY, L.P.  
 GOODMAN COMPANY, L.P.  
 BY ITS GENERAL PARTNER,  
 GOODMAN HOLDING COMPANY  
 By: /s/ LAWRENCE M. BLACKBURN  
 Name: LAWRENCE M. BLACKBURN  
 Title: Executive Vice President and Chief  
 Financial Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ * DAVID L. SWIFT	President, Chief Executive Officer and Director	June 19, 2008
/s/ * LAWRENCE M. BLACKBURN	Executive Vice President, Chief Financial Officer and Director	June 19, 2008
/s/ * MARK M. DOLAN	Vice President, Corporate Controller and Treasurer	June 19, 2008
/s/ * BEN D. CAMPBELL	Executive Vice President, General Counsel, Secretary and Director	June 19, 2008
/s/ * CHARLES A. CARROLL	Chairman of the Board of Directors	June 19, 2008

By: /s/ BEN D. CAMPBELL Attorney-in-Fact

Name: BEN D. CAMPBELL

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 19, 2008.

QUIETFLEX MANUFACTURING COMPANY, L.P.

BY ITS GENERAL PARTNER,

QUIETFLEX HOLDING COMPANY

By: /s/ LAWRENCE M. BLACKBURN  
 Name: LAWRENCE M. BLACKBURN  
 Title: Executive Vice President and Chief  
 Financial Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ * DAVID L. SWIFT	President, Chief Executive Officer and Director	June 19, 2008
/s/ * LAWRENCE M. BLACKBURN	Executive Vice President, Chief Financial Officer and Director	June 19, 2008
/s/ * MARK M. DOLAN	Vice President, Corporate Controller and Treasurer	June 19, 2008
/s/ * BEN D. CAMPBELL	Executive Vice President, General Counsel, Secretary and Director	June 19, 2008
/s/ * CHARLES A. CARROLL	Chairman of the Board of Directors	June 19, 2008
By: /s/ BEN D. CAMPBELL Name: BEN D. CAMPBELL	Attorney-in-Fact	

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 19, 2008.

GOODMAN HOLDING COMPANY, L.L.C.

BY ITS SOLE MEMBER,

GOODMAN MANUFACTURING II LLC

BY ITS SOLE MEMBER,

GOODMAN GLOBAL HOLDINGS, INC.

By: /s/ LAWRENCE M. BLACKBURN  
 Name: LAWRENCE M. BLACKBURN  
 Title: Executive Vice President and Chief  
 Financial Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ * DAVID L. SWIFT	President, Chief Executive Officer and Director	June 19, 2008
/s/ * LAWRENCE M. BLACKBURN	Executive Vice President, Chief Financial Officer and Director	June 19, 2008
/s/ * MARK M. DOLAN	Vice President, Corporate Controller and Treasurer	June 19, 2008
/s/ * BEN D. CAMPBELL	Executive Vice President, General Counsel, Secretary and Director	June 19, 2008
/s/ * CHARLES A. CARROLL	Chairman of the Board of Directors	June 19, 2008

By: /s/ BEN D. CAMPBELL Attorney-in-Fact

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Name: BEN D. CAMPBELL

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**EXHIBIT INDEX**

<b>Exhibit No.</b>	<b>Description of Exhibit</b>
2.1	Asset Purchase Agreement, dated November 18, 2004, by and among Goodman Global Holdings, Inc., Frio Holdings, Inc. and Frio, Inc. (incorporated by reference to Exhibit 2.1 on Goodman Global Holdings, Inc.'s Form S-4, filed with the SEC on September 21, 2005, File No. 333-128462)
2.2	Agreement and Plan of Merger, dated as of October 21, 2007, by and among Chill Holdings, Inc., Chill Acquisition, Inc. and Goodman Global, Inc. (incorporated by reference to Exhibit 2.1 on Goodman Global, Inc.'s Form 8-K, filed with the SEC on October 25, 2007)
2.3	Amendment No. 1 to Agreement and Plan of Merger, dated as of January 3, 2008, by and among Chill Holdings, Inc., Chill Acquisition, Inc. and Goodman Global, Inc. (incorporated by reference to Exhibit 2.1 on Goodman Global, Inc.'s Form 8-K, filed with the SEC on January 4, 2008)
3.1**	Certificate of Amendment of Certificate of Incorporation of Chill Holdings, Inc.
3.2**	Certificate of Incorporation of Chill Holdings, Inc.
3.3**	By-laws of Chill Holdings, Inc.
3.4**	Certificate of Incorporation of Chill Acquisition, Inc.
3.5**	By-laws of Chill Acquisition, Inc.
3.6**	Amended and Restated Certificate of Incorporation of Goodman Global, Inc.
3.7**	Amended and Restated Bylaws of Goodman Global, Inc.
3.8**	Certificate of Incorporation of Frio, Inc.
3.9**	Certificate of Amendment of Certificate of Incorporation of Frio, Inc.
3.10**	Bylaws of Frio, Inc.
3.11**	Certificate of Incorporation of Quietflex Holding Company
3.12**	Bylaws of Quietflex Holding Company
3.13**	Certificate of Formation of Goodman Manufacturing I LLC
3.14**	Limited Liability Company Agreement of Goodman Manufacturing I LLC
3.15**	Certificate of Formation of Goodman Manufacturing II LLC
3.16**	Limited Liability Company Agreement of Goodman Manufacturing II LLC
3.17**	Certificate of Formation of Goodman Holding Company, L.L.C.
3.18**	Amended and Restated Limited Liability Company Agreement of Goodman Holding Company, L.L.C.
3.19**	Certificate of Formation of Goodman Canada, L.L.C.
3.20**	Amended and Restated Limited Liability Company Agreement of Goodman Canada, L.L.C.
3.21**	Certificate of Formation of Goodman II Holdings Company, L.L.C.
3.22**	Amended and Restated Limited Liability Company Agreement of Goodman II Holdings Company, L.L.C.
3.23**	Certificate of Limited Partnership of RAI Merger Limited Partnership
3.24**	Certificate of Amendment of Certificate of Limited Partnership of RAI Merger Limited Partnership
3.25**	Certificate of Amendment of Certificate of Limited Partnership of The Amana Company, L.P.
3.26**	Certificate of Amendment of Certificate of Limited Partnership of Amana Company, L.P.

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<b>Exhibit No.</b>	<b>Description of Exhibit</b>
3.27**	Agreement of Limited Partnership of RAI Merger Limited Partnership
3.28**	Amended and Restated Articles of Incorporation of Pioneer Metals, Inc.
3.29**	Articles of Amendment to Articles of Incorporation of Goodman Distribution Southeast, Inc.
3.30**	Amended and Restated Bylaws of Goodman Distribution Southeast, Inc.
3.31**	Articles of Incorporation of Amana Holding Company
3.32**	Bylaws of Goodman Appliance Holding Company
3.33**	Articles of Incorporation of Goodman Distribution Corp.
3.34**	Articles of Amendment of Articles of Incorporation of Goodman Distribution Corp.
3.35**	Articles of Amendment to the Articles of Incorporation of American Distributors, Inc.
3.36**	Articles of Amendment to the Articles of Incorporation of American Distributors, Inc.
3.37**	Bylaws of American Distributors, Inc.
3.38**	Articles of Incorporation of Goodman Holding Company
3.39**	Bylaws of Goodman Holding Company
3.40**	Articles of Incorporation of GMC Sales Corp.
3.41**	Articles of Amendment to the Articles of Incorporation of GMC Sales Corp.
3.42**	Bylaws of GMC Sales Corp.
3.43**	Certificate of Limited Partnership of Goodman Manufacturing Company, L.P.
3.44**	Amended and Restated Agreement of Limited Partnership of Goodman Manufacturing Company, L.P.
3.45**	Certificate of Limited Partnership of Quietflex Manufacturing Company, L.P.
3.46**	Agreement of Limited Partnership of Quietflex Manufacturing Company, L.P.
3.47**	First Amendment to Agreement of Limited Partnership of Quietflex Manufacturing Company, L.P.
3.48**	Certificate of Limited Partnership of Nitek Acquisition Company, L.P.
3.49**	Agreement of Limited Partnership of Nitek Acquisition Company, L.P.
4.1	Indenture, dated as of February 13, 2008, by and between Chill Acquisition, Inc., to be merged with and into Goodman Global, Inc., and Wells Fargo Bank, National Association, as Trustee
4.2	Guarantor Supplemental Indenture, dated as of February 13, 2008, among the Guaranteeing Subsidiaries of Goodman Global, Inc., as identified therein, and Wells Fargo Bank, National Association, as Trustee
4.3	Form of Exchange Note (included in Exhibit 4.1)
4.4	Form of 13.50%/14.00% Note (included in Exhibit 4.1)
4.5	Exchange and Registration Rights Agreement, dated February 13, 2008, by and among Chill Acquisition, Inc., GSO Domestic Capital Funding LLC, GSO COF Facility LLC, GSO Origination Funding Partners LP, Farallon Funding, L.L.C., AlpInvest Partners Mezzanine 2007 C.V., KKR Financial Holdings III, LLC and CMP II Initial Holdings, L.L.C.
4.6	Joinder and Assumption Agreement, dated February 13, 2008, among Goodman Global, Inc., the Initial Guarantors listed therein, GSO Domestic Capital Funding LLC, GSO COF Facility LLC, GSO Origination Funding Partners LP, Farallon Funding, L.L.C., AlpInvest Partners Mezzanine 2007 C.V., KKR Financial Holdings III, LLC and CMP II Initial Holdings, L.L.C.



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<b>Exhibit No.</b>	<b>Description of Exhibit</b>
5.1***	Opinion of Simpson Thacher & Bartlett LLP
5.2***	Opinion of Akerman Senterfitt
5.3***	Opinion of Andrews Kurth LLP
10.1	\$800,000,000 Credit Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., Chill Acquisition Inc., which merged with and into Goodman Global, Inc., and Barclays Capital, the investment banking division of Barclays Bank Plc and Calyon New York Branch, as Joint Lead Arrangers, and Barclays Capital, the investment banking division of Barclays Bank Plc, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, and General Electric Capital Corporation, as the Administrative and Collateral Agent
10.2	Revolving Credit Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., Chill Acquisition Inc., which merged with and into Goodman Global, Inc., and Barclays Capital, the investment banking division of Barclays Bank Plc and General Electric Capital Corporation, as Joint Lead Arrangers, Barclays Capital, the investment banking division of Barclays Bank Plc, Calyon New York Branch and General Electric Capital Corporation, as joint bookrunners, General Electric Capital Corporation, as the Administrative, Collateral Agent, Swingline Lender and Letter of Credit Issuer
10.3	Intercreditor Agreement, dated February 13, 2008, between General Electric Capital Corporation, as collateral agent for the Term Loan Secured Parties and the Revolving Secured Parties referred to therein and acknowledged by Chill Holdings, Inc., Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and certain subsidiaries of Goodman Global, Inc.
10.4	Term Loan Security Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.5	Revolving Security Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.6	Term Loan Guarantee, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.7	Revolving Guarantee, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.8	Term Loan Pledge Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.9	Revolving Pledge Agreement, dated as of February 13, 2008, among Chill Intermediate Holdings, Inc., each of the Subsidiary Guarantors listed therein of Chill Acquisition, Inc., which merged with and into Goodman Global, Inc. and General Electric Capital Corporation, as collateral agent for the Secured Parties as defined therein
10.10* **	Chill Holdings, Inc. 2008 Stock Incentive Plan
10.11* **	Chill Holdings, Inc. 2008 Annual Incentive Compensation Plan and form of award agreement thereunder
10.12 *	Employment Agreement, dated February 13, 2008, between Chill Acquisition, Inc. and Charles A. Carroll

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<b>Exhibit No.</b>	<b>Description of Exhibit</b>
10.13 *	Employment Agreement, dated February 13, 2008, between Chill Acquisition, Inc. and Lawrence M. Blackburn
10.14	Stockholders Agreement, dated February 13, 2008 by and among Chill Holdings, Inc., Chill Acquisition, Inc., Hellman & Friedman Capital Partners VI, L.P., Hellman & Friedman Capital Partners VI (Parallel), L.P., Hellman & Friedman Capital Associates VI, L.P., Hellman & Friedman Capital Executive VI, L.P., H&F Chill Partners, L.P., GSO Special Situations Fund LP, GSO Origination Funding Partners LP, GSO COF Facility LLC, Farallon Capital Institutional Partners, L.P., Farallon Capital Institutional Partners II, L.P., Farallon Capital Institutional Partners III, L.P., Tincum Partners, L.P., AlpInvest Partners Mezzanine 2007 C.V. and CMP II Initial Holdings, L.L.C.
10.15 *	Management Stockholders Agreement, dated February 13, 2008 by and among Chill Holdings, Inc., Chill Acquisition, Inc., Hellman & Friedman Capital Partners VI, L.P., Hellman & Friedman Capital Partners VI (Parallel), L.P., Hellman & Friedman Capital Associates VI, L.P., Hellman & Friedman Capital Executives VI, L.P., and H&F Chill Partners, L.P. and each of the Management Stockholder identified therein
10.16	Lease Agreement, dated December 1, 1994, between the Daniel Childrens 1991 Trust, the Lucy Hughes Abell 1991 Trust, the Sam Houston Abell 1991 Trust, the JBG Childrens 1991 Trust, the Hutton Gregory Goodman 1990 Trust, the Hannah Jane Goodman 1990 Trust, the Mary Jane Goodman 1990 Trust and the Harold Viterbo Goodman, II 1990 Trust and Goodman Manufacturing Company, L.P. (incorporated by reference to Exhibit 10.35 on Goodman Global, Inc. s Amendment No. 1 to Form S-1, filed with the SEC on March 13, 2006, File No. 333-131597)
10.17 *	Charles A. Carroll Form of Option Agreement
10.18 *	Form of Equity Contribution Agreement
10.19 *	Form of Option Roll Over Agreement
10.20 *	Form of Severance Agreement
10.21 *	Form of Indemnification Agreement
10.22 *	Form of Time-Vested Option Agreement
10.23 *	Form of Performance-Vested Option Agreement
10.24* **	Employment Agreement, dated April 17, 2008 between Goodman Global, Inc. and David L. Swift
10.25* **	Amendment Number One to Employment Agreement dated February 13, 2008 between Chill Acquisition, Inc. and Charles A. Carroll
12.1	Statement of Computation of Ratio of Earnings to Fixed Charges
21.1	Subsidiaries of the Registrant
23.1	Consent of Simpson Thacher and Bartlett LLP (included as part of its opinion filed as Exhibit 5.1 hereto)
23.2*****	Consent of Ernst & Young LLP
24.1**	Power of Attorney of David L. Swift
25.1	Statement of Eligibility of Trustee
99.1	Form of Letter of Transmittal
99.2	Form of Notice to Clients
99.3	Form of Letter to Brokers, Dealers, Commercial banks, Trust Companies and other Nominees
99.4	Form of Notice of Guaranteed Delivery

Previously filed with Registration Statement on Form S-4 on April 15, 2008.

\* Management contract or compensatory plan or arrangement.

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\*\* Previously filed with Amendment No. 1 to the Registration Statement on Form S-4 on May 30, 2008.

\*\*\* Previously filed with Amendment No. 2 to the Registration Statement on Form S-4 on June 17, 2008.

\*\*\*\* Filed herewith.