

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

In re:

TAYLOR-WHARTON
INTERNATIONAL LLC¹, et al.,

Debtors.

Chapter 11

Case No. 09-14089 (BLS)
Jointly Administered

Hearing Date: January 6, 2010 at 9:30 a.m.
Objection Deadline: December 30, 2009 at 4:00 p.m.

**MOTION OF DEBTORS AND DEBTORS IN POSSESSION FOR AN ORDER:
(I) APPROVING THEIR DISCLOSURE STATEMENT; (II) ESTABLISHING
PROCEDURES FOR SOLICITATION AND TABULATION OF VOTES TO
ACCEPT OR REJECT THEIR JOINT PLAN OF REORGANIZATION,
INCLUDING: (A) APPROVING THE FORM AND MANNER OF
DISTRIBUTION OF SOLICITATION PACKAGES, (B) APPROVING THE
FORM AND MANNER OF NOTICE OF THE CONFIRMATION HEARING, (C)
ESTABLISHING A RECORD DATE AND APPROVING PROCEDURES FOR
DISTRIBUTION OF SOLICITATION PACKAGES, (D) APPROVING FORMS
OF BALLOTS, (E) ESTABLISHING THE DEADLINE FOR RECEIPT OF
BALLOTS, AND (F) APPROVING THE PROCEDURES FOR VOTE
TABULATIONS; (III) ESTABLISHING THE DEADLINE AND PROCEDURES
FOR FILING OBJECTIONS TO: (A) CONFIRMATION OF THE PLAN AND (B)
PROPOSED CURE AMOUNTS RELATED TO CONTRACTS AND LEASES
ASSUMED UNDER THE PLAN; AND (IV) GRANTING RELATED RELIEF**

Taylor-Wharton International LLC (“TWI”), together with its affiliated debtors and debtors in possession (collectively, the “Debtors”), by and through their undersigned proposed counsel, respectfully move this Court (this “Motion”) pursuant to sections 1125 and 1126 of title 11 of the United States Code, (the “Bankruptcy Code”), Rules 2002, 3016, 3017, and 3020 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 3017-1(a) and 3017-1(b) of the Local Rules of Practice and Procedure of the United States Bankruptcy Court for the

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number are: Taylor-Wharton International LLC (1577); TWI-Holding LLC (8154); Taylor-Wharton Intermediate Holdings LLC (6890); Alpha One Inc. (1392); Beta Two Inc. (1408); Gamma Three Inc. (1367); Delta Four Inc. (1320); Epsilon Five Inc. (1344); TW Cryogenics LLC (1713); TW Cylinders LLC (1665); Sherwood Valve LLC (1781); American Welding & Tank LLC (1945); and TW Express LLC (6414). Each of the Debtors has a principal place of business at 4817 Old Gettysburg Road, Mechanicsburg, Pennsylvania 17055.

District of Delaware (the “Local Rules”) for the entry of an order substantially in the form annexed hereto as Exhibit A (i) approving their *Disclosure Statement in Support of Joint Plan of Reorganization of Taylor Wharton International LLC and its Affiliated Debtors Under Chapter 11 of the United States Bankruptcy Code*, dated December 4, 2009 [D.I. 78] (including all exhibits thereto and as amended, modified, or supplemented from time to time, the “Disclosure Statement”) as containing “adequate information” as that term is defined in section 1125(a)(1) of the Bankruptcy Code; (ii) establishing procedures for solicitation and tabulation of votes to accept or reject the *Joint Plan of Reorganization of Taylor-Wharton International LLC and its Affiliated Debtors Under Chapter 11 of the United States Bankruptcy Code*, dated December 4, 2009 (including all exhibits thereto and as amended, modified, or supplemented from time to time, the “Plan”),² including (a) approving the form and manner of distribution of the solicitation packages, (b) approving the form and manner of notice of the hearing to consider confirmation of the Plan (the “Confirmation Hearing”), (c) establishing a record date and approving procedures for distributing solicitation packages, (d) approving the forms of ballots, (e) establishing the deadline for the receipt of ballots, and (f) approving procedures for tabulating acceptances and rejections of the Plan; (iii) establishing the deadline and procedures for filing objections to (a) confirmation of the Plan and (b) proposed cure amounts for executory contracts and unexpired leases that may be assumed as part of the Plan; and (iv) granting related relief. In support thereof, the Debtors respectfully state as follows:

² A copy of the Plan was filed for informational purposes only as an exhibit to the Restructuring Support Agreement filed on November 19, 2009 [D.I. 24].

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Venue of the above-captioned cases (these “Cases”) is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

II. FACTUAL BACKGROUND

3. On November 18, 2009 (the “Petition Date”), the Debtors filed Voluntary Petitions for relief under chapter 11 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner in these Cases and the Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no official committee of unsecured creditors has been appointed in these Cases.

A. The Debtors’ Businesses

4. TWI is a Delaware limited liability holding company that wholly owns, through separate Delaware corporations, five distinct subsidiary limited liability companies, each of which is engaged in specific manufacturing operations generally engaged in the field of gas technology (the “Operating Companies”).

5. TWI acquired its various businesses from Harsco Corporation (“Harsco”) pursuant to an Asset and Stock Purchase Agreement dated as of November 27, 2007 (the “Asset Purchase Agreement”), pursuant to which TWI paid Harsco \$300 million in cash and agreed to pay up to an additional \$40 million on a contingent “earnout” basis, subject to various adjustments, including a traditional post-closing working capital adjustment.

6. Thereafter TWI, through the Operating Companies, commenced operations within its current corporate structure. Certain managerial and related financial functions are centralized at the TWI level, although each Operating Company has a distinct operation. More specifically, the former Harsco businesses are now organized among the TWI Operating Companies as follows:

- i. **TW Cryogenics LLC** (“Cryogenics”). Cryogenics has operations in Theodore, Alabama and Jesup, Georgia, and its wholly-owned subsidiaries have operations in China, Malaysia, Slovakia, Germany and Australia. Cryogenics is engaged principally in the manufacturing of cryogenic portable and bulk storage tanks. The products are used for storing cryogenic liquids, providing economical solutions for transporting, storing and dispensing liquefied gasses, medical applications, beverage carbonation applications and other related storage and delivery solutions. Customers for these products include liquid gas distribution and production companies, cryoscience equipment distributors, carbonation system retailers and distributors, and others engaged in the cryogenics business.
- ii. **Sherwood Valve LLC** (“Sherwood”). Sherwood has manufacturing facilities in Washington, Pennsylvania, Niagara Falls, New York and Cleveland, Ohio and is the leading valve producer for the industrial gas industry. Sherwood supplies valves to other TWI Operating Companies, with significant inter-affiliate sales. Among its products are industrial gas valves, propane tank valves and regulators, air conditioning and refrigeration products and SCBA, life support, SCUBA and oxygen valves. Customers include multiple tank and cylinder manufacturers (including the affiliated Operating Companies), gas packages, refrigeration rack manufacturers, air conditioning manufacturers, SCBA, SCUBA and medical industry manufacturers.
- iii. **American Welding & Tank LLC** (“AWT”). AWT has manufacturing facilities in Jesup, Georgia, Fremont, Ohio, Bloomfield, Iowa, Crossville, Tennessee and West Jordan, Utah and is a world leader in the design, manufacturing, repair, refurbishment and conversion of propane tanks for residential commercial, industrial and agricultural applications. AWT’s products include bulk steel above-ground and underground propane storage tanks as well as tanks designed for anhydrous ammonia. Customers for manufactured and refurbished products include nationwide and regional propane distributors.

iv. **TW Express LLC** (“TW Express”). TW Express is a distribution company which primarily serves AWT and holds the transportation assets and leases of TWI.

7. TWI also has a fifth operating business, TWI Cylinders LLC (“Cylinders”), which has operations in Harrisburg, Pennsylvania and Huntsville, Alabama and is engaged in the manufacturing of high and low pressure cylinders. The Debtors have been marketing the Cylinders business for sale and expect to complete a sale of this business pursuant to Section 363 of the Bankruptcy Code during the pendency of these Cases.

B. Pre-petition Capitalization

8. As of the Petition Date, two levels of secured debt encumbered the Debtors' assets. The Debtors have \$73.9 million currently outstanding under a senior secured debt facility, in addition to \$7.1 million of undrawn letters of credit (the "Senior Debt") pursuant to a Credit Agreement, dated as of December 7, 2007, originally by and among the Debtors, General Electric Capital Corporation as Agent (“GE”), Merrill Lynch Business Financial Services Inc., and The CIT Group/Business Credit Inc. The Debtors also have \$73.3 million outstanding on senior subordinated secured notes plus accrued interest (the "Mezzanine Debt") issued pursuant to the Note Purchase Agreement, dated as of December 7, 2007, by and among the Debtors, U.S. Bank National Association, as collateral agent and three other financial institutions.

9. The relationship between the holders of the Senior Debt and the Mezzanine Debt is governed by a Subordination and Intercreditor Agreement, dated as of December 7, 2007 (the "Intercreditor Agreement"). The Intercreditor Agreement provides, among other things, that the Senior Debt must be paid in full before the payment of any and all of the Mezzanine Debt can be repaid.

10. As of the Petition Date, the Debtors had incurred an estimated \$13.5 million in unpaid trade debt to their suppliers and other vendors. The Debtors also have \$55 million of

outstanding obligations pursuant to unsecured PIK Notes (the “Unsecured Notes”) which are contractually subordinated in right of payment to the Senior Debt and the Mezzanine Debt and structurally subordinated to most of the Debtors’ other creditors.

C. Events Leading to the Debtors’ Bankruptcy Filing

11. A number of macroeconomic factors related to the global economic downturn are the primary cause of a steep decline in the Debtors’ operating revenues and their attendant need to restructure. The Debtors’ revenues have declined from approximately \$404 million in 2008 to a forecasted amount of approximately \$237 million in 2009. The first nine months of fiscal year 2009 produced revenues of \$183 million. As a result, as of the Petition Date, the Debtors no longer had the financial ability to service their non-trade related debt.

12. As of April 1, 2009, the Debtors were in covenant default with respect to the Senior Debt and also were in payment default with respect to the Mezzanine Debt for having missed an interest payment. On April 24, 2009, GE advised TWI that it had exercised its right to sweep excess cash and block the transfer of additional funds from the Debtors’ accounts. Thereafter, TWI repaid approximately \$21 million in cash which had been drawn under the revolving credit facility portion of the Senior Debt and GE released the blockage of TWI’s accounts to the extent necessary to allow TWI to operate under a budget agreed upon with GE. The Debtors and GE entered into a Forbearance Agreement and, during the months that followed, the Debtors and the holders of the Senior Debt and the Mezzanine Debt negotiated the terms of the financial restructuring which is described below.

D. Terms Of The Debtors’ Financial Restructuring

13. The Debtors diligently evaluated a number of options to address their financial issues. Those efforts included sharing information with and engaging in discussions with a

variety of the Debtors' stakeholders with the goal of restructuring the Debtors' balance sheet to bring it into line with the Debtors' current debt servicing capabilities. These discussions resulted in an agreement on the terms of a financial restructuring between the Debtors and the holders of all of their Senior Debt and Mezzanine Debt and a majority of their equity interests.

14. The terms of the Debtors' financial restructuring provide for the investment of \$12 million of new capital and the cancellation of an aggregate of \$120 million in debt as follows: (i) the Senior Debt will be restructured into a \$20 million revolving credit facility, a \$30 million Senior Term A Facility (collectively, "Term A Debt"), and a \$39 million Term B Facility ("Term B Debt"); (ii) the \$12 million of new capital will be invested as payment-in-kind debt (the "Investor PIK Debt"), which will be subordinate to the Term A Debt and *pari passu* with the Term B Debt; (iii) all of the Mezzanine Debt and Unsecured Notes will be cancelled; (iv) the holders of the Mezzanine Debt will receive the right to purchase not less than one-half of the principal amount of the Investor PIK Debt; (v) 7% of the Debtors' reorganized equity also will be issued pro rata to the holders of the Mezzanine Debt and the balance will be issued pro rata to the purchasers of the Investor PIK Debt, to be allocated as agreed among them; and (vi) substantially all of the Debtors' trade and other unsecured creditors will be paid or otherwise satisfied in full.

15. The terms of the Debtors' restructuring have been documented in a Restructuring Lock-Up Agreement between the Debtors and the holders of all of the Senior Debt and Mezzanine Debt (the "Lock-Up Agreement"), which was filed with the Court on November 19, 2009 [D.I. 24]. The Lock-Up Agreement provides that the parties have agreed to and will support the Debtors' proposed Plan of Reorganization, a draft version of which was filed as an exhibit to the Lock-Up Agreement for informational purposes only. The Lock-Up Agreement

further provides for the specific terms of the Debtors' Term A Facility, Term B Facility, Investor PIK Debt and LLC Operating Agreement to be entered into upon confirmation of the Plan, all as reflected in the agreements and other documents attached as exhibits to the Lock-Up Agreement.

16. On December 4, 2009, the Debtors filed the Plan [D.I. 77] and the Disclosure Statement [D.I. 78].

III. BASIS FOR RELIEF REQUESTED

A. Approval of the Disclosure Statement

17. Pursuant to section 1125 of the Bankruptcy Code, a plan proponent must provide holders of impaired claims with "adequate information" regarding a proposed plan of reorganization. Section 1125(a)(1) provides:

[A]dequate information" means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interest in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan....

11 U.S.C. § 1125(a)(1). Thus, a disclosure statement must, as a whole, provide information that is "reasonably practicable" to permit an "informed judgment" by impaired creditors or shareholders entitled to vote on the plan. See In re Dakota Rail, Inc., 104 B.R. 138, 142 (Bankr. D. Minn. 1989); In re Copy Crafters Quickprint Inc., 92 B.R. 973, 979 (Bankr. N.D.N.Y. 1988) (adequacy of disclosure statement "is to be determined on a case-specific basis under a flexible standard that can promote the policy of chapter 11 towards fair settlement through a negotiation process between informed interested parties").

18. In examining the adequacy of the information contained in a disclosure statement, the Bankruptcy Court has broad discretion. See Texas Extrusion Corp. v. Lockheed Corp. (In re

Texas Extrusion Corp.), 844 F.2d 1142, 1157 (5th Cir. 1988); see also In re Dakota Rail, Inc., 104 B.R. at 143 (court has “wide discretion to determine ... whether a disclosure statement contains adequate information without burdensome, unnecessary and cumbersome detail”). Accordingly, the determination of whether a disclosure statement contains adequate information is to be made on a case-by-case basis, focusing on the unique facts and circumstances of each case.

19. The Debtors submit that the Disclosure Statement contains adequate information for holders of claims and interests to make an informed decision regarding the Plan, including a discussion of, among other things, (a) an overview of the Plan, including a summary of treatment of claims and interests under the Plan; (b) detailed information with respect to the voting and confirmation processes associated with the Plan; (c) the organization and activities of the Debtors; (d) information concerning the Debtors’ bankruptcy cases including events leading to the Debtors’ bankruptcy filings and significant case events; (e) a summary of the Plan; (f) detailed information concerning the classification of claims and interests under the Plan; (g) detailed information concerning the treatment of classes of claims and equity interests under the Plan; (h) the means for implementation of the Plan; (i) releases and injunctions related to releases provided for in the Plan; (j) the corporate structure of the reorganized debtors intended to emerge after confirmation of the Plan (the “Reorganized Debtors”); (k) distributions under the Plan; (l) procedures for disputed claims; (m) procedures for assumption of executory contracts; (n) conditions precedent to confirmation and the effective date of the Plan (the “Effective Date”); (o) the effect of confirmation of the Plan; (p) the feasibility of the Plan; (q) important considerations and risk factors attendant to the Plan; (r) certain tax consequences of the Plan; and (s) alternatives to the Plan, including an analysis of the Debtors’ liquidation under chapter 7 of

the Bankruptcy Code. The Debtors believe that the Disclosure Statement contains “adequate information” as that phrase is defined in section 1125(a)(1) of the Bankruptcy Code.

Accordingly, the Debtors respectfully submit that the Disclosure Statement should be approved.

B. Establishing Solicitation Procedures for the Plan³

1. Approval of Form and Manner of Solicitation Package

20. Bankruptcy Rule 3017(d) specifies the materials to be distributed to creditors and equity security holders upon approval of a disclosure statement. In accordance therewith, the Debtors propose to transmit or cause to be transmitted, on or before **January 11, 2010**, by first class mail to parties entitled to vote on the Plan (the “Voting Parties”)⁴ a solicitation package containing: (A) a written notice (the “Confirmation Hearing Notice”), substantially in the form annexed hereto as Exhibit B, of (i) the Court’s approval of the Disclosure Statement, (ii) the deadline for voting on the Plan, (iii) the date of the Confirmation Hearing, and (iv) the deadline and procedures for filing objections to the confirmation of the Plan; (B) the Plan (either by paper copy or in “pdf” format on a CD-Rom, at the Debtors’ discretion); (C) the Disclosure Statement (either by paper copy or in “pdf” format on a CD-Rom, at the Debtors’ discretion); (D) the appropriate ballots (proposed forms of which are annexed hereto as Exhibits C-1 – C-4) and ballot return envelope; and (e) such other information as the Court may direct or approve (collectively, the “Solicitation Package”). The Debtors submit that such materials and manner of service satisfy the requirements of Bankruptcy Rule 3017(d).

³ Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to them in the Plan.

⁴ The Voting Parties consist of the holders of Claims in Classes 1, 2, 5, 6.

21. Pursuant to section 1126(f) of the Bankruptcy Code, unimpaired creditors are “conclusively presumed to have accepted the plan, and solicitation of acceptances with respect to such class ... is not required.” 11 U.S.C. § 1126(f). Accordingly, the Debtors propose that they need not be required to transmit a Solicitation Package to holders of DIP Facility Claims, Administrative Expense Claims and Priority Tax Claims, which are unclassified claims, and the holders of Other Secured Claims, Other Priority Claims and Intercompany Claims in Classes 3, 4 and 8, respectively (collectively, the “Unimpaired Creditors”), each of which is unimpaired and deemed to have accepted the Plan.

22. In addition, the Debtors propose that they not be required to transmit Solicitation Packages to holders of Holdco PIK Note Claims in Class 7, Equity Interest in TWI-Holding in Class 9 and Equity Interest in all Debtors Other than TWI-Holding in Class 10 (collectively, the “Deemed Rejecting Holders”), given that the Deemed Rejecting Holders are not entitled to vote on the Plan because they will not receive any distribution or retain property under the Plan, and are deemed to have rejected the Plan. Instead, the Debtors propose to mail or cause to be mailed to each of the Unimpaired Creditors and the Deemed Rejecting Holders (collectively, the “*Non-Voting Parties*”) at their address to which notices are required to be sent to such Unimpaired Creditors and Deemed Rejecting Holders pursuant to Bankruptcy Rule 2002(g), a notice substantially in the form annexed hereto as Exhibit D (the “Non-Voting Holder Notice”), which will set forth: (a) the non-voting classes; (b) a summary of the treatment of Claims and Interests under the Plan; (c) the date and time of the Confirmation Hearing; and (d) the deadline and procedures for filing objections to the Plan. The Non-Voting Holder Notice will indicate that Non-Voting Parties may obtain a copy of the Plan and Disclosure Statement

free of charge on The Garden City Group, Inc.'s dedicated webpage related to the Chapter 11 Cases.⁵

23. Article IX of the Plan sets forth the treatment of all executory contracts and unexpired leases to which the Debtors were a party prior to the Petition Date that were not (a) assumed in the Chapter 11 Cases prior to the Confirmation Date, (b) rejected in the Chapter 11 Cases prior to the Confirmation Date, or (c) specifically rejected pursuant to the Plan (collectively, the “Contracts and Leases”). The Plan provides that all prepetition executory contracts and unexpired leases that are listed on Exhibit 9 to the Plan shall be and shall be deemed to be rejected in accordance with the provisions and requirements of Sections 365 and 1123 of the Bankruptcy Code (the “Plan Rejected Contracts and Leases”). The Plan also provides that all executory contracts or unexpired leases of the Reorganized Debtors not listed on Exhibit 9 to the Plan, and not otherwise the subject of a pending objection or pleading seeking to reject or otherwise contesting the executory contract or unexpired lease, will be assumed as of the Effective Date in accordance with the provisions and requirements of Sections 365 and 1123 of the Bankruptcy Code (collectively, the “Assumed Contracts and Leases”).

24. To provide notice of the Confirmation Hearing and the Plan to the known counterparties to each of the Contracts and Leases the Debtors will mail or cause to be mailed to all of such known counterparties the Confirmation Hearing Notice as well as the Disclosure Statement and the Plan (either by paper copy or in “pdf” format on a CD-Rom, at the Debtors’ discretion).⁶

⁵ Any party in interest may receive a hard copy of the Plan and Disclosure Statement upon written request to the Solicitation Agent (as defined below).

⁶ In addition, the Debtors will mail the known counterparties to Assumed Contracts and Leases the Cure Notice as described below.

2. Approval of Form and Manner of Confirmation Hearing and Publication Notice

25. As indicated above, upon approval of the Disclosure Statement, the Debtors will serve on the appropriate parties either the Confirmation Hearing Notice, together with a Solicitation Package, or the Non-Voting Holder Notice. The Debtors additionally propose to publish a one-time notice (the "Publication Notice"), substantially in the form annexed hereto as Exhibit E, in the national edition of the *Wall Street Journal* and regional newspapers covering the geographical areas in and around Theodore, AL; Jesup, GA; Washington, PA; Niagara Falls, NY; Cleveland, OH; Fremont, OH; Crossville, TN; West Jordan, UT; Harrisburg, PA; and Huntsville, AL not later than 10 days (or as soon thereafter as practicable) after the entry of an order approving the Disclosure Statement.

3. Establishment of Record Date and Approving Procedures for Distribution of Solicitation Packages

26. The Debtors propose that the Court establish **December 31, 2009** as the record date (the "Record Date") for the purposes of determining creditors who may be entitled to receive a Solicitation Package and to vote on the Plan, subject to the disallowance of such creditors' claims for voting purposes as set forth below, and of determining the creditors and interest holders entitled to receive the Non-Voting Holder Notice.⁷

27. As authorized in connection with the Court's approval of the retention of The Garden City Group, Inc. ("GCG") the court-appointed noticing and claims agent in the Debtors' chapter 11 cases, GCG shall be permitted to inspect, monitor, and supervise the solicitation process, to tabulate the ballots and to certify to the Court the results of the balloting (in such

⁷ If a claim or interest is in the process of being transferred from one entity to another but such transfer has not yet been completed on the Record Date, the transferor will be the entity entitled to cast the Ballot with respect to the claim or interest.

capacity GCG shall be referred to as the “Solicitation Agent,” the “Tabulation Agent,” or the “Balloting Agent”).

28. On **December 5, 2009**, the Debtors will cause notices of the hearing to consider approval of the Disclosure Statement (the “Disclosure Statement Hearing”) to be mailed to all creditors, interest holders, and parties in interest. The Debtors expect that a number of such notices will be returned by the United States Postal Service as undeliverable.⁸ The Debtors believe that it is costly and wasteful to mail Solicitation Packages to the same addresses from which notices are returned as undeliverable. Therefore, the Debtors seek the Court’s approval to dispense with the mailing of Solicitation Packages to the entities listed at such addresses unless the Debtors are provided with an accurate address prior to the Disclosure Statement Hearing. The Debtors further propose that they may, but shall not be required to, attempt to locate the correct address for some or all of these entities and, prior to the Voting Deadline (as defined below), resend the Solicitation Packages or the Non-Voting Holder Notices that are returned as undeliverable.

4. Approval of Forms of Ballot and Procedures for Distribution to Holders of Claims

29. Bankruptcy Rule 3017(d) provides that ballots for accepting or rejecting the Plan should conform substantially to Official Form No. 14. The Debtors propose to use forms of ballot (the “Ballot”) substantially in the form annexed hereto as Exhibits C-1 – C-4. The proposed forms of Ballot are based upon Official Form No. 14, but have been slightly modified to meet the particular requirements of the Debtors’ chapter 11 cases and the Plan.

⁸ Upon return of an undeliverable notice, the Debtors, through GCG, will confirm that the notice address is the last known address provided to the Debtors and, if not, will resend the notice to such last known address. If the duplicate notice is returned undeliverable, the Debtors intend to make no further inquiry, but instead to rely on the Publication Notice described herein for purposes of providing notice.

30. All Ballots will be accompanied by return envelopes, postage prepaid, addressed to the ballot tabulation center (the “Ballot Tabulation Center”) at **The Garden City Group, Inc., Attn: Taylor-Wharton International LLC BALLOT TABULATION CENTER, P.O. Box 9527, Dublin, OH 43017-4827.**

5. Establishment of Deadline for Receipt of Ballots

31. Pursuant to Bankruptcy Rule 3017(c), at the time of or before the approval of the Disclosure Statement, “the court shall fix a time within which the holders of claims and interests may accept or reject the plan.” Fed. R. Bankr. P. 3017(c). The Debtors respectfully request that the Court establish **February 8, 2010 at 5:00 p.m. (Eastern)** as the voting deadline (the “Voting Deadline”), by which all ballots accepting or rejecting the Plan shall be received at the Ballot Tabulation Center, unless such deadline is extended by the Debtors. Ballots must be returned to the Ballot Tabulation Center in the provided return envelope by first class mail, postage prepaid, by overnight courier, or by hand delivery. Ballots cast by facsimile, email, or other electronic transmission will not be counted unless approved in advance by the Debtors in writing.

6. Approval of Procedures for Vote Tabulation

32. For purposes of voting on the Plan, the Debtors propose, with respect to all creditors, that the amount of a claim for tabulation purposes should be, as applicable:

- (a) The claim listed in a Debtor’s schedule of liabilities, provided that (i) such claim is not scheduled as contingent, unliquidated, undetermined, or disputed, and (ii) no Proof of Claim has been timely filed (or otherwise deemed timely filed by the Court under applicable law).
- (b) The noncontingent and liquidated amount specified in a Proof of Claim timely filed with the Court or GCG (or otherwise deemed timely filed by the Court under applicable law) to the extent the Proof of Claim has not been superseded or amended by another Proof of Claim, and is not the subject of an objection, either generally to the applicable claim or solely for purposes of determining the amount of the applicable claim for voting purposes, filed no later than **February 10, 2010** (the “Vote Objection Deadline”) (or, if such claim has been resolved pursuant to a stipulation or

order entered by the Court, or otherwise resolved by the Court, the amount set forth in such stipulation or order).

- (c) The amount temporarily allowed by the Court for voting purposes, pursuant to Bankruptcy Rule 3018(a), provided that a motion is brought, notice is provided, and a hearing is held at or prior to the Confirmation Hearing, in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.
- (d) Except as otherwise provided in subsection (c) hereof, with respect to a ballot cast by an alleged creditor whose claim (i) is not listed on a Debtor's schedule of liabilities, or (ii) is listed as disputed, contingent, and/or unliquidated on a Debtor's schedule of liabilities, but who has timely filed a Proof of Claim in an unliquidated or unknown amount that is not the subject of an objection filed before the Vote Objection Deadline, such ballot shall be counted as a vote in determining whether the numerosity requirement of section 1126(c) of the Bankruptcy Code has been met, but shall not be counted in determining whether the aggregate claim amount requirement has been met.
- (e) If a creditor elects to complete Item 1 on the ballot, which allows a single vote for all claims held by such creditor in the applicable Classes, such vote shall be counted separately for numerosity purposes in each Class in which the creditor is entitled to vote and, with respect to each such Class, in the full amount of the claim in such Class.

33. If a creditor casts a ballot and has timely filed a Proof of Claim (or has otherwise had a Proof of Claim deemed timely filed by the Court under applicable law), but the creditor's claim is the subject of an objection (either generally to the applicable claim, or solely for purposes of determining the amount of the applicable claim for voting purposes) filed no later than the Vote Objection Deadline, the Debtors request, in accordance with Bankruptcy Rule 3018, that any such creditor's ballot not be counted, unless such claim is temporarily allowed by the Court for voting purposes, pursuant to Bankruptcy Rule 3018(a), after a Claims Estimation Motion (as defined below) is brought by such creditor, notice is provided, and a hearing is held

at or prior to the Confirmation Hearing.⁹ Notwithstanding the foregoing, if an objector to a claim requests that such claim be reclassified and/or allowed in a fixed, reduced amount, such claimant's ballot shall, to the extent either mutually acceptable to the claimant, objector and Debtors or as ordered by the Bankruptcy Court after notice and a hearing, be counted in such reduced amount and/or under the reclassified category.

34. The Debtors further request that the following voting procedures and standard assumptions be used in tabulating the Ballots:

- (a) For purposes of the numerosity requirement of section 1126(c) of the Bankruptcy Code, separate claims held by a single creditor in a particular class will be aggregated and treated as if such creditor held one claim in such class, and the vote related to such claim will be treated as a single vote to accept or reject the Plan.
- (b) Creditors must vote all of their claims within a particular class either to accept or reject the Plan and may not split their vote. Accordingly, a ballot that partially rejects and partially accepts the Plan *shall not be counted*.
- (c) Ballots that indicate both acceptance and rejection of the Plan *shall not be counted* as votes to accept or reject the Plan.
- (d) Ballots that fail to indicate an acceptance or rejection of the Plan *shall not be counted* as votes to accept or reject the Plan.
- (e) Ballots that indicate an acceptance or rejection of the Plan and which are otherwise properly executed and received prior to the Voting Deadline, *shall be counted* as votes to accept or reject the Plan.
- (f) Only ballots that are timely received prior to the Voting Deadline and that are properly executed will be counted.
- (g) Unsigned ballots *shall not be counted*.

⁹ This proposed procedure is consistent with section 1126 of the Bankruptcy Code, which provides that a plan may be accepted or rejected by the holder of a claim allowed under section 502 of the Bankruptcy Code. In turn, section 502(a) of the Bankruptcy Code provides that a filed proof of claim is deemed allowed "unless a party in interest . . . objects." 11 U.S.C. § 502(a)

- (h) Ballots postmarked prior to the Voting Deadline, but received after the Voting Deadline, *shall not be counted*.
- (i) Ballots that are illegible, or contain insufficient information to permit the identification of the creditor, *shall not be counted*.
- (j) Whenever a creditor casts more than one ballot voting the same claim prior to the Voting Deadline, the last ballot received prior to the Voting Deadline shall be deemed to reflect the voter's intent and supersede any prior ballots.
- (k) If a creditor simultaneously casts inconsistent duplicate ballots, with respect to the same claim, such ballots *shall not be counted*.
- (l) Each creditor shall be deemed to have voted the full amount of its claim. Unless otherwise ordered by the Court, questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of ballots shall be determined by the Balloting Agent and the Debtors, which determination shall be final and binding.
- (m) Any creditor may vote to accept or reject all of the Classes applicable to it by completing Item 1 on the ballot, which allows a single vote for all claims held by such creditor.

35. The Debtors additionally request that creditors seeking to have a claim temporarily allowed for purposes of voting to accept or reject the Plan pursuant to Bankruptcy Rule 3018(a) be required to file a motion (the "Claims Estimation Motion") for such relief no later than **January 25, 2010**, and that the Court schedule a hearing on such motion for a date on or prior to the Confirmation Hearing.

7. Scheduling of Confirmation Hearing

36. The Debtors request that the Court schedule the Confirmation Hearing for **February 16, 2010 at 10:00 a.m. (Eastern)** or the earliest subsequent date at which the Court is available.

C. **Establishment of Deadline and Procedures for Filing Objections to Confirmation of the Plan and Proposed Cure Amounts**

1. **Objections to Confirmation of the Plan**

37. Bankruptcy Rule 3020(b) provides that objections to confirmation of a proposed chapter 11 plan must be filed and served on the Debtors, the U.S. Trustee, any official committees appointed in the Debtors' chapter 11 cases, and on any other entity designated by the Court, within a time specified by the bankruptcy court. To comply with the notice requirement of Bankruptcy Rule 2002(b) and 2002(d) and the solicitation schedule described above, and to permit the Debtors adequate time to respond to objections prior to the Confirmation Hearing, the Debtors propose that **February 8, 2010 at 4:00 p.m.** (prevailing Eastern Time) (the "Confirmation Objection Deadline") be fixed by the Court as the last date for filing and serving written objections, comments, or responses to confirmation of the Plan (including any supporting memoranda). The Debtors further propose that the Court only consider timely filed written objections and that all objections not timely filed and served in accordance with the provisions of this Motion be deemed waived. Any objections filed should provide proposed language to remedy such objections. Objections to confirmation of the Plan shall be served on the following parties:

The Debtors: Taylor-Wharton International LLC and affiliated debtors, 4817 Old Gettysburg Road, Mechanicsburg, PA, 17055 (Attn: Leonard York);

Counsel for the Debtors: Reed Smith LLP, 1201 N. Market Street, Suite 1500, Wilmington, DE, 19801 (Attn: Mark W. Eckard);

Counsel for the Debtors' Postpetition Secured Financing Lenders and Prepetition First Lien Secured Lenders: Latham & Watkins, 233 South Wacker Drive, Suite 5800, Chicago IL 60606 (Attn: Richard Levy);

Counsel for the Debtors' Prepetition Second Lien Noteholders: Proskauer Rose LLP, One International Place, Boston, MA 02110 (Attn: Stephen Boyko); and

Office of the United States Trustee: 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Mark Kenney).

2. Asserting Proposed Cure Amounts for Contracts Assumed Pursuant to the Plan

38. As set forth above, the Plan and section 365(b) of the Bankruptcy Code require the Debtors to cure or provide adequate assurance that the Debtors will promptly cure existing defaults under the Assumed Contracts and Leases. Establishing the amounts to be paid in satisfaction of all such cure obligations is an important element of Plan confirmation and feasibility. To aid in the implementation of the Plan, the Debtors seek to establish a procedure for determining cure amounts (“Cure Amounts”) and a deadline for objections relating to the assumption of Assumed Contracts and Leases pursuant to the Plan. To facilitate a prompt resolution of cure disputes and objections relating to the assumption of these Assumed Contracts and Leases, the Debtors propose the following deadlines and procedures:¹⁰

- (a) the Debtors will cause the Notice of (i) Possible Assumption of Contracts and Leases, (ii) Fixing of Cure Amounts, and (iii) Deadline to Object Thereto (the “Cure Notice”), in a form substantially similar to the notice annexed hereto as Exhibit F, to be served on the non-debtor parties to all Assumed Contracts and Leases on or before **January 25, 2010**. Among other things, the Cure Notice shall set forth the Cure Amount that the Debtors believe must be paid in order to cure all monetary defaults under each of the Assumed Contracts and Leases;
- (b) the non-debtor parties to the Assumed Contracts and Leases shall have until the Confirmation Objection Deadline, which deadline may be extended in the sole discretion of the Debtors, to object (a “Cure Objection”) to the (i) Cure Amounts listed by the Debtors and to propose alternative cure amounts, and/or (ii) proposed assumption of the Assumed Contracts and Leases under the Plan; *provided, however*, that if, subsequent to **January 25, 2010**, the Debtors amend the list of the Assumed Contracts and Leases to add a contract or lease or to reduce the

¹⁰ Receipt of a Cure Notice does not constitute a determination by the Debtors to assume any executory contract or unexpired lease; the Debtors may still decide not to assume any executory contract or unexpired lease through the Plan or otherwise.

Cure Amount thereof, except where such reduction was based upon the mutual agreement of the parties, the non-debtor party thereto shall have at least seven calendar days after service of such amendment to object thereto or to propose an alternative Cure Amount(s);

- (c) any party objecting to the Cure Amount(s), whether or not such party previously has filed a Proof of Claim with respect to amounts due under the applicable Assumed Contract or Lease, or objecting to the potential assumption of such Assumed Contract or Lease, shall be required to file and serve a Cure Objection, in writing, setting forth with specificity any and all cure obligations that the objecting party asserts must be cured or satisfied in respect of the Assumed Contract or Lease and/or any and all objections to the potential assumption of such Assumed Contract or Lease, together with all documentation supporting such cure claim or objection, upon each of the Notice Parties so that the ***Cure Objection is actually received by them no later than the Confirmation Objection Deadline.*** If a Cure Objection is timely filed and the parties are unable to settle such Cure Objection, the Court shall determine the amount of any disputed Cure Amount(s) or adjudicate such Cure Objection at a hearing to be held at the time of the Confirmation Hearing or such other hearing date to which the parties may mutually agree. The Debtors may, in their sole discretion, extend the Confirmation Objection Deadline without further notice, but are not obligated to do so; and
- (d) in the event that no Cure Objection is timely filed with respect to an Assumed Contract or Lease, the counterparty to such Assumed Contract or Lease shall be deemed to have consented to the assumption of the Assumed Contract or Lease and the Cure Amount proposed by the Debtors and shall be forever enjoined and barred from seeking any additional amount(s) on account of the Debtors' cure obligations under section 365 of the Bankruptcy Code or otherwise from the Debtors, their estates or the Reorganized Debtors. In addition, if no timely Cure Objection is filed with respect to an Assumed Contract or Lease, upon the effective date of the Plan, the Reorganized Debtors and the counterparty to such Assumed Contract or Lease shall enjoy all of the rights and benefits under the Assumed Contract or Lease without the necessity of obtaining any party's written consent to the Debtors' assumption of the Assumed Contract or Lease, and such counterparty shall be deemed to have waived any right to object, consent, condition, or otherwise restrict the Debtors' assumption of the Assumed Contract or Lease.

The inclusion of an Assumed Contract or Lease in the Cure Notice is without prejudice to the Debtors' right to modify their election to assume or to reject such Assumed Contract or Lease prior to the entry of a final, non-appealable order (which order may be the order confirming the

Plan) approving the assumption or rejection of such Assumed Contract or Lease, and receipt of a Cure Notice or inclusion in the list of executory contracts and unexpired leases sought to be assumed under the Plan is not a final determination that any Assumed Contract or Lease will, in fact, be assumed.

39. The Debtors submit that the foregoing procedures will help facilitate the resolution of any issues concerning Cure Amounts and/or objections regarding whether an Assumed Contract or Lease satisfies the requirements for assumption, while adequately protecting the rights of the counterparties to the Assumed Contracts and Leases, and, therefore, request approval of such procedures.

NOTICE

40. No trustee or examiner has been appointed in these Chapter 11 Cases. The Debtors have provided notice of filing of the Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) counsel to the agents for the Debtors' postpetition financing lenders, prepetition first lien lenders and prepetition second lien noteholders; (c) the Debtors' 30 largest unsecured creditors; and (d) any persons who have filed a request for notice in the Debtors' chapter 11 cases pursuant to Bankruptcy Rule 2002. Due to the nature of the relief requested, the Debtors respectfully submit that no further notice of this Motion is required.

NO PRIOR REQUEST

41. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: December 4, 2009
Wilmington, Delaware

Respectfully submitted,

REED SMITH LLP

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