NCI BUILDING SYSTEMS INC
Form S-4
September 10, 2009

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**As filed with the Securities and Exchange Commission on September 10, 2009**
**Registration No. 333-**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**
**Washington, D.C. 20549**
**Form S-4**
**REGISTRATION STATEMENT**
**UNDER**
**THE SECURITIES ACT OF 1933**
**NCI BUILDING SYSTEMS, INC.**
*(Exact Name of Registrant as Specified in Its Charter)*

| **Delaware** | **3448** | **76-0127701** |
|---|---|---|
| *(State or Other Jurisdiction of Incorporation or Organization)* | *(Primary Standard Industrial Classification Code Number)* | *(I.R.S. Employer Identification No.)* |

**10943 North Sam Houston Parkway West**
**Houston, Texas 77064**
**(281) 897-7788**
*(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant s Principal Executive Offices)*
**Todd R. Moore**
**Executive Vice President, General Counsel and Secretary**
**10943 North Sam Houston Parkway West**
**Houston, Texas 77064**
**(281) 897-7788**
*(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent For Service)*
***Copies to:***

**Mark Gordon**
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**(212) 403-1000**

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**Christopher J. Marcus**
**Kirkland & Ellis LLP**
**601 Lexington Avenue**
**New York, New York 10022**
**(212) 446-4800**

**Approximate date of commencement of proposed sale to the public:** As soon as practicable after this Registration Statement becomes effective.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. o

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement from the same offering. o

If this form is a post effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

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. (Check one):

Large accelerated filer o Accelerated filer þ Non-accelerated filer o Smaller reporting company o
(Do not check if a smaller reporting company)

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer) o

Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer) o

**CALCULATION OF REGISTRATION FEE**

| Title of Each Class of Securities to be Registered | Amount to be Registered | Proposed Maximum Offering Price per Security | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---|---|---|---|---|
| Common Stock, par value $0.01 per share | 70,200,000(1) | $1.56(2) | $109,634,400.00(3) | $6,117.60(4) |

(1) This Registration Statement registers the maximum number of shares of the Registrant s common stock, par value $0.01 per share, that may be issued in connection with the exchange offer or, in the alternative, pursuant to the prepackaged plan by the Registrant for any and all of its 2.125% Convertible Senior Subordinated Notes due 2024 (the Notes ), of which $180 million is outstanding as of the date hereof.

(2) Calculated by dividing the Proposed Maximum Aggregate Offering Price of $109,634,400.00 by 70,200,000, which is the maximum number of shares of the Registrant s common stock that may be issued in connection with the exchange offer or, in the alternative, pursuant to the prepackaged plan.

(3) Estimated solely for purpose of calculating the registration fee pursuant to Rule 457(f)(1) and (3) under the Securities Act of 1933, as amended, and calculated based on the average of the asked and bid price per $1,000 in principal amount of Notes on September 4, 2009, less $90,000,000, the aggregate amount of cash to be paid by the Registrant pursuant to the exchange offer, assuming that the exchange offer is fully subscribed by holders of Notes or, in the alternative, pursuant to the prepackaged plan.

(4) The registration fee has been calculated pursuant to Rule 457(f) of the Securities Act.

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment that specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.**

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The information in this prospectus/disclosure statement is not complete and may change. We may not complete the exchange offer and issue these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus/disclosure statement is not an offer to sell these securities, and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

**SUBJECT TO COMPLETION, DATED SEPTEMBER 10, 2009**

**PRELIMINARY PROSPECTUS/DISCLOSURE STATEMENT**

**Offer to Exchange**
**Cash and Shares of Common Stock**
**for**
**2.125% Convertible Senior Subordinated Notes due 2024**
(CUSIP No. 628852AG0)

**Disclosure Statement**
**for**
**Solicitation of Acceptances of**
**Prepackaged Plan of Reorganization**

**THIS EXCHANGE OFFER AND THE SOLICITATION PERIOD FOR THE PREPACKAGED PLAN WILL EXPIRE AT 11:59 P.M., NEW YORK CITY TIME, ON OCTOBER 7, 2009, UNLESS EXTENDED OR EARLIER TERMINATED BY US. AS OF THE DATE OF THIS PROSPECTUS/DISCLOSURE STATEMENT, WE HAVE NO INTENTION OF EXTENDING SUCH DATE.**

NCI Building Systems, Inc. is proposing a financial restructuring to address an immediate need for liquidity in light of a potentially imminent default under, and acceleration of, our existing credit facility, which may occur as early as November 6, 2009 (which may, in turn, also lead to a default under, and acceleration of, our other indebtedness, including the $180.0 million in principal amount of 2.125% Convertible Senior Subordinated Notes due 2024, which we refer to as the convertible notes), and the high likelihood that we will be required to repurchase the convertible notes on November 15, 2009, the first scheduled mandatory repurchase date under the convertible notes indenture. We are proposing to effect the financial restructuring through one of the following two approaches:

an out-of-court financial restructuring, which we refer to as the recapitalization plan, consisting of:

this exchange offer to acquire any and all of the convertible notes for cash and shares of our common stock, par value $0.01 per share, in accordance with the terms and subject to the conditions set forth in this prospectus/disclosure statement and in the related letter of transmittal;

a $250.0 million investment, which we refer to as the CD&R investment, by Clayton, Dubilier & Rice Fund VIII, L.P., which we refer to as the CD&R Fund, a fund managed by Clayton, Dubilier & Rice, Inc., which we refer to as CD&R, a leading private equity investment firm, involving a private placement to the CD&R Fund of a newly created series of our preferred stock, par value $1.00 per share, to be designated as the Series B Cumulative Convertible Participating Preferred Stock, which we refer to as the Series B convertible preferred stock;

the refinancing of our existing credit facility, which we refer to as the term loan refinancing, under which we and the lenders under our existing credit agreement will enter into an amendment to our existing credit agreement, providing for, among other things, the repayment of approximately $143.3 million of the $293.3 million in principal amount of term loans outstanding under our existing credit facility and a modification of the terms and maturity of the $150.0 million balance; and

the ABL financing, pursuant to which we will enter into an agreement for a $125.0 million asset-based loan facility;

**OR, IN THE ALTERNATIVE**
**(if conditions to completion of the recapitalization plan are not satisfied or waived)**

an in-court financial restructuring, through which we would seek to accomplish the results contemplated by the recapitalization plan through the effectiveness of a prepackaged plan of reorganization, which we refer to as the prepackaged plan, acceptances for which we are soliciting in compliance with chapter 11 of title 11 of the United States Code, which we refer to as the Bankruptcy Code, pursuant to this prospectus/disclosure statement.

We refer to the financial restructuring, whether accomplished through the recapitalization plan or the prepackaged plan, as the restructuring. For a description of this exchange offer and the procedures for tendering convertible notes, see The Exchange Offer. For a description of the prepackaged plan and the procedures for submitting ballots, see The Prepackaged Plan.

We have entered into a lock-up and voting agreement, which we refer to as the lock-up agreement, with the holders of more than 79% of the aggregate principal amount of the outstanding convertible notes, pursuant to which such holders have agreed, in accordance with the terms of the lock-up agreement, (1) to tender their convertible notes in this exchange offer; (2) to the extent that they hold obligations under our existing credit agreement, to support the term loan refinancing by accepting their portion of the repayment contemplated thereby and by executing an amendment to our existing credit agreement in the form attached as Annex J; and (3) to vote all of their convertible notes and obligations under our existing credit facility in favor of the prepackaged plan, among other things.

Holders of convertible notes will receive $500 in cash and 390 shares of common stock for each $1,000 principal amount of convertible notes and related accrued interest that we accept in the exchange offer. In the alternative, under the prepackaged plan, holders of convertible notes will receive the same consideration for each $1,000 principal amount of convertible notes and related accrued interest. The closing of this exchange offer is conditioned upon, among other things, at least 95% of the aggregate principal amount of outstanding convertible notes being validly tendered and not withdrawn, which we refer to as the minimum tender condition, the receipt of proceeds from the CD&R investment (which is itself subject to several conditions, including the consummation of the term loan refinancing and the ABL financing and the expiration or termination of any waiting period required to consummate the CD&R investment under the Austrian Cartel Act of 2005, which we refer to as the Austrian Act) and the effectiveness of the registration statement of which this prospectus/disclosure statement forms a part. See The Exchange Offer Conditions to Completion of the Exchange Offer.

We intend to apply for the shares of common stock issued pursuant to this exchange offer or the prepackaged plan to be listed on the New York Stock Exchange, which we refer to as the NYSE. Our common stock is traded on the NYSE under the symbol NCS. We will not receive any proceeds from this exchange offer. See Source and Use of Proceeds.

***We urge you to carefully read the Risk Factors section beginning on page 26 before you make any decision regarding this exchange offer or the prepackaged plan.***

**NONE OF THIS EXCHANGE OFFER, THE PREPACKAGED PLAN NOR THE SHARES OF COMMON STOCK OFFERED HEREBY HAVE BEEN APPROVED OR DISAPPROVED BY THE U.S. SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR ANY BANKRUPTCY COURT, NOR HAS THE SEC, ANY STATE SECURITIES COMMISSION OR ANY BANKRUPTCY COURT PASSED UPON THE ACCURACY, COMPLETENESS OR ADEQUACY OF THIS PROSPECTUS/DISCLOSURE STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE IN THE UNITED STATES.**

*The Dealer-Manager for the Exchange Offer is:*

**Greenhill & Co., LLC**

September 10, 2009

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**NONE OF NCI BUILDING SYSTEMS, INC., THE CD&R FUND, CD&R, GREENHILL & CO., LLC (THE DEALER-MANAGER), MORROW & CO., LLC (THE INFORMATION AGENT), COMPUTERSHARE TRUST COMPANY, N.A. (THE EXCHANGE AGENT), FINANCIAL BALLOTING GROUP LLC (THE VOTING AGENT) OR ANY OF THEIR RESPECTIVE AFFILIATES IS MAKING ANY RECOMMENDATION AS TO WHETHER YOU SHOULD TENDER YOUR CONVERTIBLE NOTES IN THE EXCHANGE OFFER OR VOTE TO ACCEPT OR REJECT THE PREPACKAGED PLAN. YOU MUST MAKE YOUR OWN DECISION WHETHER TO TENDER CONVERTIBLE NOTES IN THE EXCHANGE OFFER AND WHETHER TO VOTE TO ACCEPT OR REJECT THE PREPACKAGED PLAN.**

**This prospectus/disclosure statement incorporates important business and financial information about us from documents that we have filed with the SEC but have not been included in, or delivered with, this prospectus/disclosure statement. For a listing of the documents that we have incorporated by reference into this prospectus/disclosure statement, see Incorporation of Certain Documents by Reference. This information is available without charge upon written or oral request to NCI Building Systems, Inc., 10943 North Sam Houston Parkway West, Houston, Texas 77064, Attn: Investor Relations Department, or made by telephone at (281) 897-7788. To obtain timely delivery, holders of convertible notes must request the information no later than the fifth business day prior to the expiration date of the exchange offer.**

**We have not authorized any person to provide any information or to make any representation in connection with the exchange offer or the prepackaged plan other than the information contained or incorporated by reference in this prospectus/disclosure statement or the accompanying letter of transmittal or ballot, and if any person provides any of this information or makes any representation of this kind, that information or representation must not be relied upon as having been authorized by us.**

**The Company is not aware of any jurisdiction in which the making of the exchange offer or the tender of convertible notes in connection therewith would not be in compliance with the laws of such jurisdiction. If you are in a jurisdiction where offers to sell, or solicitations of offers to purchase, the securities offered by this prospectus/disclosure statement are unlawful, or if you are a person to whom it is unlawful to direct these types of activities, then the offer and solicitation presented in this document does not extend to you. In those jurisdictions where the securities, blue sky or other laws require this exchange offer, or the solicitation of acceptances to the prepackaged plan, to be made by a licensed broker or dealer and the dealer-manager or any of its affiliates is such a licensed broker or dealer in such jurisdictions, this exchange offer, or the solicitation of acceptances to the prepackaged plan, shall be deemed to be made by the dealer-manager or such affiliate (as the case may be) on our behalf in such jurisdictions. The exchange offer and solicitation of acceptances of the prepackaged plan are being made on the basis of this prospectus/disclosure statement and the accompanying letter of transmittal or ballot and are subject to the terms and conditions described herein. Any decision to participate in the exchange offer or to vote on the prepackaged plan must be based on the information contained in this prospectus/disclosure statement, the accompanying letter of transmittal or the ballot, or specifically incorporated by reference herein. In making an investment decision, prospective investors must rely on their own examination of us and the terms of the restructuring and the new securities, including the merits and risks involved. Prospective investors should not construe anything in this prospectus/disclosure statement as legal, business or tax advice. Each prospective investor should consult its advisors as needed to make its investment decision and to determine whether it is legally permitted to participate in the exchange offer or to vote on the prepackaged plan under applicable legal investment or similar laws or regulations.**

**Each prospective investor must comply with all applicable laws and regulations in force in any jurisdiction in which it participates in this exchange offer or in the solicitation for acceptances to the prepackaged plan, or in**

**which it possesses or distributes this prospectus/disclosure statement, and must obtain any consent, approval or permission required by it for participation in this exchange offer or in the solicitation for acceptances to the prepackaged plan, under the laws and regulations in force in any jurisdiction to which it is subject, and none of us, the dealer-manager, the information agent, the exchange agent, the voting agent, CD&R, the CD&R Fund or any of our or their respective representatives shall have any responsibility therefor.**

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**Neither CD&R nor the CD&R Fund is making this exchange offer or soliciting votes for the prepackaged plan, and none of CD&R, the CD&R Fund, any of their respective affiliates or any of their, or their respective affiliates representatives is responsible for the accuracy of any information in this prospectus/disclosure statement.**

**The information contained in this prospectus/disclosure statement is as of the date of this prospectus/disclosure statement only and is subject to change, completion or amendment without notice. Neither the delivery of this prospectus/disclosure statement, nor any sale made hereunder, shall under any circumstances create any implication that there has been no change in our affairs since the date on the front cover of this prospectus/disclosure statement or that the information incorporated by reference herein is correct as of any time subsequent to the date of such information.**

**This prospectus/disclosure statement contains summaries believed to be accurate with respect to certain documents, but reference is made to the actual documents for complete information. All of those summaries are qualified in their entirety by this reference. Copies of documents referred to herein will be made available to prospective investors upon request to the information agent or the voting agent.**

**In this prospectus/disclosure statement and in the documents incorporated by reference herein, we rely on and refer to information and statistics regarding our industry. We obtained this market data from independent industry publications or other publicly available information. Although we believe that these sources are reliable, we and the dealer-manager have not independently verified and do not guarantee the accuracy and completeness of this information.**

**All references to NCI refer to NCI Building Systems, Inc. only and all references to we, our, ours, us, the Company and similar terms are to NCI Building Systems, Inc., and its subsidiaries, unless the context otherwise requires.**

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## QUESTIONS AND ANSWERS ABOUT THE RESTRUCTURING

*The following are some questions and answers regarding the restructuring, including the recapitalization plan (which includes this exchange offer) and the prepackaged plan. It does not contain all of the information that may be important to you. You should carefully read this prospectus/disclosure statement, including the information incorporated by reference into this prospectus/disclosure statement, to understand fully the terms of the restructuring, the recapitalization plan (which includes this exchange offer) and the prepackaged plan, as well as the other considerations that are important to you in making your investment decision. You should pay special attention to the Risk Factors beginning on page 26 and Cautionary Statement Regarding Forward-Looking Statements beginning on page 49.*

### General

**Q: What is the purpose of the restructuring?**

A: The purpose of the restructuring is to address the Company s immediate need for liquidity in light of a potentially imminent default under, and acceleration of, our existing credit facility, which may occur as early as November 6, 2009 (which may, in turn, also lead to a default under, and acceleration of, our other indebtedness, including the convertible notes indenture), and the high likelihood that we will be required to repurchase the convertible notes on November 15, 2009, the first scheduled mandatory repurchase date under the convertible notes indenture.

The restructuring consists of four related transactions:

the CD&R investment, which involves the sale and issuance to the CD&R Fund of 250,000 shares of Series B convertible preferred stock for $250.0 million;

the retirement of the convertible notes;

the term loan refinancing, which involves the refinancing of our existing credit facility under which we will repay approximately $143.3 million of the $293.3 million in principal amount of term loans outstanding under our existing credit facility and enter into an amendment to our existing credit agreement providing for a modification of the terms and maturity of the $150.0 million balance; and

the ABL financing, which involves our entry into a $125.0 million asset-based loan facility.

Each of the transactions comprising the restructuring may be accomplished through either the out-of-court recapitalization plan or, in the alternative, the in-court prepackaged plan. If the restructuring is being accomplished through the recapitalization plan, the retirement of the convertible notes tendered in the exchange offer would be accomplished through this exchange offer and the refinancing of our existing credit facility would be accomplished through an amendment to our existing credit agreement. In the alternative, if the restructuring is being accomplished through the prepackaged plan, the retirement of the convertible notes as well as the refinancing of our existing credit facility would be accomplished through the effectiveness of the prepackaged plan. See The Restructuring.

The closing of the exchange offer is conditioned on the satisfaction or, with the consent of the CD&R Fund, waiver of the minimum tender condition, which requires that at least 95% of the aggregate principal amount of outstanding

convertible notes are validly tendered and not withdrawn in this exchange offer. If the restructuring is accomplished through the recapitalization plan, we intend, but are not required, to retire any remaining convertible notes outstanding after the consummation of this exchange offer by exercising our redemption right under the convertible notes indenture on or after November 20, 2009; if we do not so exercise our redemption right, such remaining convertible notes will otherwise be retired pursuant to the terms of the convertible notes indenture.

For a more detailed description of this exchange offer, see The Exchange Offer.

**Q: What is the recapitalization plan?**

A: The recapitalization plan is one method to accomplish the restructuring. Under the recapitalization plan:

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the CD&R investment would be effected through a private placement transaction;

the retirement of the convertible notes tendered in this exchange offer would be effected through this exchange offer, pursuant to which the Company is offering to acquire any and all of its outstanding convertible notes in exchange for cash and shares of common stock;

the term loan refinancing would be effected through an amendment to our existing credit agreement by us and the lenders under our existing credit agreement; and

the ABL financing would be effected through our entry into the ABL agreement.

If the restructuring is accomplished through the recapitalization plan, we intend, but are not required, to retire any remaining convertible notes outstanding after the consummation of this exchange offer by exercising our redemption right under the convertible notes indenture on or after November 20, 2009; if we do not so exercise our redemption right, such remaining convertible notes will otherwise be retired pursuant to the terms of the convertible notes indenture.

See The Restructuring and The Exchange Offer.

**Q: What is the prepackaged plan?**

A: The prepackaged plan is an alternative to the recapitalization plan for accomplishing the restructuring. In the event that the conditions to the recapitalization plan are not satisfied or, with the prior consent of the CD&R Fund, waived (including, for example, the minimum tender condition) but we receive acceptances from a sufficient number of holders of impaired claims in an impaired class of claims to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired class of claims, as an alternative to the recapitalization plan, we may elect and, under the terms of the investment agreement, we may be required, to seek confirmation of the prepackaged plan in a chapter 11 proceeding. See The Restructuring Description of the CD&R Investment The Investment Agreement Commencement of a Reorganization Case in Connection with the Prepackaged Plan Covenant.

Under the prepackaged plan, holders of convertible notes and the lenders under our existing credit agreement (as well as the holders of all other claims and interests) would receive the same treatment with respect to their claims (and interests) as they would receive in the recapitalization plan, the CD&R Fund would receive the same 250,000 shares of Series B convertible preferred stock contemplated by the CD&R investment and the Company would enter into the ABL agreement. Existing holders of our common stock would continue to hold such common stock.

See The Prepackaged Plan.

**Q: In what circumstances will we file the prepackaged plan instead of close the exchange offer?**

A: If we are unable to complete the recapitalization plan because the minimum tender condition, which requires that at least 95% of the aggregate principal amount of outstanding convertible notes are validly tendered and not withdrawn in this exchange offer, is not satisfied or waived, or less than all of the lenders under our existing credit facility consent to entering into the amended credit agreement, but holders of convertible notes or obligations under our credit agreement holding, in either case, at least two-thirds (2/3) in amount and more than

one-half (1/2) in number of the claims in the applicable class who actually cast ballots vote to accept the prepackaged plan, we will seek to accomplish the restructuring, on the same economic terms as the recapitalization plan, by way of the prepackaged plan. See Questions and Answers About the Restructuring What is the Prepackaged Plan? and Summary The Prepackaged Plan.

The confirmation and effectiveness of the prepackaged plan are subject to certain conditions that may not be satisfied and are different from those under the recapitalization plan (including the exchange offer). We cannot assure you that all requirements for confirmation and effectiveness of the prepackaged plan will be satisfied or that the bankruptcy court will conclude that the requirements for confirmation and effectiveness of the prepackaged plan have been satisfied. See The Prepackaged Plan Confirmation of the Prepackaged Plan and The Prepackaged Plan Conditions to Effective Date of the Prepackaged Plan.

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The effective date of the prepackaged plan will not occur until the conditions set forth below have been satisfied or waived: (1) the confirmation order has been entered and no stay of such order is in effect; (2) the receipt of proceeds from the CD&R investment; (3) the consummation of the term loan refinancing; and (4) the consummation of the ABL financing. See The Prepackaged Plan Conditions to the Effective Date of the Prepackaged Plan.

**Q: What are the expected results of the restructuring, either accomplished through the recapitalization plan or the prepackaged plan?**

A: The restructuring, if successful, will increase the Company s capital and liquidity levels and reduce the amount of our outstanding debt. Specifically, upon the completion of the restructuring, we expect our indebtedness to be reduced from approximately $473.7 million as of August 2, 2009 to approximately $150.4 million at the closing of the restructuring, consisting of $150.0 million in principal amount of term loans under the amended credit agreement and $0.4 million of our industrial revenue bond. See Capitalization and Source and Use of Proceeds.

The ABL financing contemplated by the restructuring will provide us with up to $125.0 million in liquidity, subject to availability under a borrowing base, for working capital purposes and future expansion. Based on its discussions with prospective lenders under the ABL agreement, the Company expects that because of borrowing base constraints, initial availability under the ABL agreement will be substantially less than the $125.0 million commitment, and may be as low as $45.0 million.

Assuming we are able to complete the restructuring, we expect that, for the foreseeable future, cash generated from operations, together with the proceeds of the ABL financing, will be sufficient to allow us to fund our operations, to increase working capital as necessary to support our strategy and to fund planned capital expenditures and expansions (including approximately $5 million expected for the remainder of fiscal 2009).

**Q: What is the lock-up agreement?**

A: We have entered into a lock-up agreement with the holders of more than 79% of the aggregate principal amount of the outstanding convertible notes. Pursuant to the lock-up agreement, each holder of convertible notes that executed the lock-up agreement has irrevocably agreed, in accordance with the terms of the lock-up agreement, (1) to tender its convertible notes in this exchange offer, (2) to the extent that such holder holds obligations under our existing credit agreement, to support the term loan refinancing by accepting its portion of the repayment contemplated thereby and by executing an amendment to our existing credit agreement in the form of the amended credit agreement attached hereto as Annex J, and (3) to vote all of its convertible notes and obligations under our existing credit facility in favor of the prepackaged plan, among other things. See The Restructuring The Lock-Up Agreement.

**Q: Why is it important that I tender my convertible notes and vote to accept the prepackaged plan?**

A: If we do not complete the restructuring either through the recapitalization plan or the prepackaged plan, because the conditions to the recapitalization plan and the prepackaged plan have not been satisfied or waived or otherwise, we will face an immediate liquidity crisis. If we do not complete the restructuring, we do not expect, and we cannot assure you, that we will have, or have access to, sufficient liquidity (1) to meet our debt repayment/repurchase obligations, including any potential acceleration of our existing credit facility, which may occur as early as November 6, 2009 (which may, in turn, also lead to a default under, and acceleration of, our other indebtedness, including the convertible notes indentures) and (2) to meet our obligation to repurchase the convertible notes at the option of the holders thereof on November 15, 2009, the next scheduled repurchase date.

Due to our non-compliance as of August 2, 2009 with the required leverage, senior leverage and interest coverage ratios in our existing credit agreement, our outstanding indebtedness of approximately $293.3 million thereunder may be declared immediately due and payable as early as November 6, 2009, the date the current waiver from the lenders under our existing credit agreement expires. In the event that we do not repay such borrowings upon acceleration, the lenders under our existing credit agreement could exercise their remedies as secured creditors with respect to the collateral securing such borrowings. A failure to pay or refinance such borrowings will also result in a default under the convertible notes indenture, which convertible notes could

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also then be declared immediately due and payable, and under our swap agreement, which could then be terminated by the counterparty thereto. If all such indebtedness, which totaled approximately $473.7 million as of August 2, 2009 and such amounts payable pursuant to the termination of the swap agreement were to become due and payable on November 6, 2009, it would result in a material adverse effect on our financial condition, operations and debt service capabilities. As of August 2, 2009, excluding restricted cash, we had a current cash balance of approximately $105.4 million to address our liquidity needs. For a description of our non-compliance with the financial ratio covenants under our existing credit agreement, see our quarterly report on Form 10-Q for the quarter ended August 2, 2009, our current reports on Form 8-K filed on May 21, 2009, July 15, 2009 and August 27, 2009 and Incorporation of Certain Documents by Reference.

In the event that we experience a liquidity crisis as described above, it could likely result in our filing for bankruptcy protection pursuant to the Bankruptcy Code on terms other than as contemplated by the prepackaged plan. If we commence such a bankruptcy filing, holders of convertible notes may receive consideration that is substantially less than what is being offered under the restructuring. See Risk Factors Risk Relating to NOT Accepting the Exchange Offer or Rejecting the Prepackaged Plan for more information on the possible consequences if the restructuring is not successfully completed.

Both this exchange offer and the prepackaged plan are subject to certain conditions. In particular, this exchange offer is subject to the satisfaction of the minimum tender condition that at least 95% of the aggregate principal amount of the outstanding convertible notes must have been validly tendered and not withdrawn in this exchange offer, and confirmation and effectiveness of the prepackaged plan requires the receipt of acceptances from a sufficient number of holders of impaired claims in an impaired class of claims to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired claims classes.

**Accordingly, it is important that you tender your convertible notes for exchange in this exchange offer and vote to accept the prepackaged plan to avoid the adverse consequences described above.**

**This Exchange Offer**

**Q: Who is making this exchange offer?**

A: NCI Building Systems, Inc. (the issuer of the convertible notes) is making this exchange offer.

**Q: What amount of convertible notes are you seeking in this exchange offer?**

A: We are seeking to acquire any and all outstanding convertible notes.

**Q: What will I receive in this exchange offer if I tender my convertible notes and they are accepted?**

A: For each $1,000 principal amount of convertible notes that you tender and not withdraw in this exchange offer and that we accept, you will, upon the terms and subject to the conditions set forth in this prospectus/disclosure statement and the letter of transmittal, receive $500 in cash and 390 shares of common stock. The cash payment and the shares of common stock to be issued pursuant to this exchange offer will be in full satisfaction of the principal amount of, and any accrued but unpaid interest through the consummation of this exchange offer on, the convertible notes so tendered and accepted.

**Q: Who may participate in this exchange offer?**

A: All holders of convertible notes may participate in this exchange offer.

**Q: Does the success of this exchange offer depend on the participation of any minimum number of holders of convertible notes?**

A: Yes. This exchange offer is subject to the satisfaction of the minimum tender condition, which means that at least 95% of the aggregate principal amount of the outstanding convertible notes must have been validly tendered and not withdrawn in this exchange offer. The satisfaction of the minimum tender condition is a condition to the closing of the CD&R investment and the term loan refinancing under the recapitalization plan.

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If this condition is not met, subject to applicable laws and our obligation under the investment agreement, we may amend this exchange offer at any time before the acceptance of the convertible notes for exchange. Under the investment agreement, however, we are prohibited from waiving any condition to this exchange offer or making any changes to the terms and conditions to this exchange offer without the prior consent of the CD&R Fund. In addition, any change to the minimum tender condition could result in a termination of the lock-up agreement.

We may extend this exchange offer beyond the initial expiration date without the prior consent of the CD&R Fund for a period of not more than 10 business days if, at such date, any of the conditions to this exchange offer have not been satisfied or, with the prior written consent of the CD&R Fund, waived, and, subject to the termination of the investment agreement, we are required to extend this exchange offer if it expires before the registration statement of which this prospectus/disclosure statement forms a part is declared effective.

**Q: How do I tender my convertible notes in this exchange offer?**

A: Please follow the procedures for tendering your convertible notes in this exchange offer described in The Exchange Offer Procedures for Tendering Convertible Notes. For further information contact the information agent or the dealer-manager at the addresses or telephone numbers on the back cover of this prospectus/disclosure statement or consult your broker, dealer, commercial bank, trust company or other nominee for assistance.

**Q: How long will this exchange offer remain open?**

A: This exchange offer and the withdrawal rights will expire at 11:59 p.m., New York City time, on October 7, 2009, or any subsequent time or date to which this exchange offer is extended.

As more fully described below, we may extend the expiration date or amend any of the terms or conditions of this exchange offer for any reason, subject to applicable laws and our obligations under the investment agreement (see The Restructuring Description of the CD&R Investment The Investment Agreement The Exchange Offer; Solicitation of Acceptances of the Prepackaged Plan ). The last date on which tenders will be accepted, whether on October 7, 2009, or any later date to which this exchange offer may be extended, is referred to as the expiration date.

Subject to our obligations under the investment agreement and applicable laws, we have the right to:

extend the expiration date and retain all tendered convertible notes, subject to your right to withdraw your tendered convertible notes; and

waive any condition in our sole discretion or otherwise amend any of the terms or conditions of this exchange offer in any respect.

Under the investment agreement, we are prohibited from waiving any condition to this exchange offer or making any changes to the terms and conditions to this exchange offer without the prior consent of the CD&R Fund. We may extend this exchange offer beyond the initial expiration date without the prior consent of the CD&R Fund for a period of not more than 10 business days, if, at such date, any of the conditions to this exchange offer have not been satisfied or, with the prior written consent of the CD&R Fund, waived, and, subject to the termination of the investment agreement, we are required to extend this exchange offer if it expires before the registration statement of which this prospectus/disclosure statement forms a part is declared effective. See The Restructuring Description of the CD&R Investment The Investment Agreement The Exchange Offer; Solicitation of Acceptances of the Prepackaged Plan. Any change to the minimum tender condition could result in the

termination of the lock-up agreement.

If we extend the expiration date, we will issue a press release or other public announcement no later than 9:00 a.m., New York City time, on the next business day after the scheduled expiration date. If we extend the expiration date, you must tender your convertible notes on or prior to the date identified in such press release or public announcement if you wish to participate in this exchange offer. If we amend any of the terms or conditions of this exchange offer, we will issue a press release or other public announcement. See The Exchange Offer Extensions; Amendments.

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We expressly reserve the right, in our sole discretion, to terminate this exchange offer and not accept for exchange any convertible notes (1) if any of the conditions to this exchange offer have not been satisfied or validly waived by us, subject to applicable laws and our obligations under the investment agreement or (2) in order to comply in whole or in part with any applicable law. See The Exchange Offer Extensions; Amendments.

**Q: When will I receive cash and shares of common stock if I tender my convertible notes in the exchange offer?**

A: Upon satisfaction or waiver of all of the conditions to this exchange offer, all convertible notes validly tendered to the exchange agent by 11:59 p.m., New York City time, on the expiration date will be accepted for exchange. The cash and shares of common stock will be delivered promptly after the expiration date. See The Exchange Offer Acceptance of Convertible Notes for Exchange; Delivery of Cash and Shares of Common Stock.

**Q: Can I withdraw my tender of convertible notes?**

A: Unless you are a party to the lock-up agreement and are otherwise restricted by the lock-up agreement, you may withdraw tendered convertible notes at any time prior to 11:59 p.m., New York City time, on the expiration date. You must send a written withdrawal notice to the exchange agent, or comply with the appropriate procedures of DTC s Automated Tender Offer Program, which we refer to as ATOP. If you change your mind, you may re-tender your convertible notes by again following the tender procedures at any time prior to 11:59 p.m., New York City time, on the expiration date. See The Exchange Offer Withdrawal Rights.

**Q: What risks should I consider in deciding whether or not to tender my convertible notes?**

A: In deciding whether to participate in this exchange offer, you should carefully consider the discussion of risks and uncertainties affecting the Company, this exchange offer, the prepackaged plan and the common stock described in the section titled Risk Factors and the documents incorporated by reference into this prospectus/disclosure statement.

**Q: If this exchange offer is consummated, but I do not tender my convertible notes, how will my rights be affected?**

A: If this exchange offer is consummated and you do not exchange your convertible notes in this exchange offer, or if your convertible notes are not accepted for exchange, unless the restructuring is being accomplished through the prepackaged plan, you will continue to hold your convertible notes and will be entitled to all the rights and subject to all the limitations applicable to the convertible notes. If you continue to hold your convertible notes, you have the right to require that we repurchase the convertible notes (1) upon the closing of the restructuring because such closing would result in a designated event under the convertible notes indenture, at a repurchase price equal to 100% of their principal amount, plus accrued and unpaid interest, including additional amounts, if any, plus under certain circumstances, if the restructuring occurs on or prior to November 15, 2009, a make-whole premium payable solely in shares of our common stock (other than cash paid in lieu of fractional shares) and (2) after five, 10 and 15 years from the date of the issuance of the convertible notes, at 100% of their principal amount, plus accrued and unpaid interest, if any, beginning November 15, 2009, and we will be required to repurchase any outstanding convertible notes for which you deliver a written repurchase notice to the paying agent, subject to certain conditions in the indenture under which the convertible notes are issued.

Unless we consummate the restructuring, however, we do not expect, and we cannot assure you, that we will have, or have access to, sufficient liquidity to meet our debt obligations, including any potential acceleration of

our indebtedness and our obligation to repurchase the convertible notes at the option of the holders thereof on November 15, 2009, the next scheduled repurchase date. Furthermore, due to our non-compliance as of August 2, 2009 with the required leverage, senior leverage and interest coverage ratios in our existing credit agreement, our outstanding indebtedness of approximately $293.3 million thereunder, which is senior to the convertible notes, may be declared immediately due and payable as early as November 6, 2009, the date of expiration of the current waiver from the lenders under our existing credit agreement. In the event that we do

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not repay such borrowings upon acceleration, lenders under our existing credit agreement could exercise their remedies as secured creditors with respect to the collateral securing such borrowings. A failure to pay or refinance such borrowings will also result in a default under the convertible notes indenture, which could also then be declared immediately due and payable, and under our swap agreement, which could then be terminated by the counterparty thereto. If all such indebtedness, which totaled approximately $473.7 million as of August 2, 2009, and such amounts payable pursuant to the termination of the swap agreement, were to become due and payable on November 6, 2009, it would result in a material adverse effect on our financial condition, operations and debt service capabilities. As of August 2, 2009, excluding restricted cash, we had a current cash balance of approximately $105.4 million to address our liquidity needs. For a description of our non-compliance with the financial ratio covenants under our existing credit agreement, see our quarterly report on Form 10-Q for the quarter ended August 2, 2009, our current reports on Form 8-K filed on May 21, 2009, July 15, 2009 and August 27, 2009 and Incorporation of Certain Documents by Reference.

See Risk Factors Risks Relating to NOT Accepting the Exchange Offer or Rejecting the Prepackaged Plan.

**Q: What happens if my convertible notes are not accepted in this exchange offer?**

A: If we do not accept your convertible notes for exchange for any reason, the unaccepted convertible notes will be returned to you without expense and the convertible notes tendered by book-entry transfer into the account of the exchange agent at DTC will be credited to your account at DTC. See The Exchange Offer Return of Convertible Notes Not Accepted for Exchange.

**Q: What is the source for the financial resources to make payment?**

A: Assuming 100% of the convertible notes are tendered and accepted in this exchange offer, approximately $90.0 million is required to pay the cash consideration for all of the convertible notes.

We expect to use a portion of the proceeds from the CD&R investment to fund the aggregate cash payment in this exchange offer. If we are unable to consummate the CD&R investment, we will not be able to accomplish the restructuring.

**Q: If I decide to tender my convertible notes, will I have to pay any fees or commissions in connection with this exchange offer?**

A: If you are the record owner of your convertible notes and you tender your convertible notes directly to the exchange agent, you will not have to pay any fees or commissions. If you hold your convertible notes through a custodian or nominee, and your custodian or nominee tenders the convertible notes on your behalf, your custodian or nominee may charge you a fee for doing so. You should consult with your custodian or nominee to determine whether any charges will apply. Additionally, we will pay all other expenses related to this exchange offer and the solicitation of acceptances to the prepackaged plan, except any commissions or concessions of any broker or dealer other than the dealer-manager. The Company will also pay any transfer taxes applicable to the exchange of the convertible notes pursuant to the exchange offer, except in circumstances described in the letter of transmittal.

**Q: Are there dissenters rights in connection with this exchange offer?**

A: Holders of convertible notes do not have dissenters rights of appraisal in connection with this exchange offer.

**Q:**

**Whom do I call if I have any questions about how to tender my convertible notes or any other questions relating to this exchange offer?**

A: Questions and requests for assistance with respect to the procedures for tendering convertible notes pursuant to this exchange offer may be directed to Morrow & Co., LLC, as the information agent, at its address and telephone number set forth on the back cover of this prospectus/disclosure statement.

You may also contact Greenhill & Co., LLC, as the dealer-manager, at its address and telephone number set forth on the back over of this prospectus/disclosure statement with any questions you may have regarding this exchange offer.

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**The Prepackaged Plan**

**Q: Who is soliciting votes on the prepackaged plan?**

A: NCI Building Systems, Inc. is soliciting votes on the prepackaged plan.

**Q: Why is NCI soliciting votes on the prepackaged plan if the restructuring can be accomplished through the recapitalization plan?**

A: We have prepared the prepackaged plan as an alternative to the recapitalization plan for accomplishing the restructuring, if the conditions to completion of the recapitalization plan, including, for example, the minimum tender condition, are not met or waived, but we receive acceptances from a sufficient number of holders of impaired claims in an impaired class of claims to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired claims classes. The prepackaged plan consists of a plan of reorganization under chapter 11 of the Bankruptcy Code that would effect the same transactions contemplated by the recapitalization plan, including the issuance of shares of Series B convertible preferred stock in connection with the CD&R investment, the payment of cash and the issuance of shares of common stock in exchange for convertible notes, the term loan refinancing and the ABL financing. Under the prepackaged plan, holders of convertible notes and the lenders under our existing credit agreement (as well as the holders of all other claims and interests) would receive the same treatment with respect to their claims (and interests) as they would receive in the recapitalization plan, the CD&R Fund would receive the same 250,000 shares of Series B convertible preferred stock contemplated by the CD&R investment and the Company would enter into the ABL agreement. Existing holders of our common stock would continue to hold such common stock. See The Prepackaged Plan.

For the prepackaged plan to be confirmed by the bankruptcy court without invoking the cram-down provisions of the Bankruptcy Code, each class of claims or interests that is impaired must vote to accept the prepackaged plan. An impaired class of claims (such as holders of convertible notes) is deemed to accept a plan of reorganization if the holders of at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the claims in such class who actually cast ballots vote to accept the prepackaged plan. If the prepackaged plan is confirmed by the bankruptcy court, it will bind all holders of claims and equity interests in the Company regardless of whether they voted for, against, or did not vote at all on, the prepackaged plan.

Therefore, assuming the prepackaged plan satisfies the other requirements of the Bankruptcy Code, a significantly smaller number of claim holders can bind other claim holders to the terms of the prepackaged plan to accomplish the restructuring than are required to effect this exchange offer and the other transactions contemplated by the recapitalization plan.

The confirmation and effectiveness of the prepackaged plan are subject to certain conditions that may not be satisfied and are different from those under the recapitalization plan. We cannot assure you that all requirements for confirmation and effectiveness of the prepackaged plan will be satisfied or that the bankruptcy court will conclude that the requirements for confirmation and effectiveness of the prepackaged plan have been satisfied. See The Prepackaged Plan Confirmation of the Prepackaged Plan and The Prepackaged Plan Conditions to Effective Date of the Prepackaged Plan.

**Q: Who is eligible to vote for the prepackaged plan?**

A: Generally, holders of claims or interests in classes that are impaired (other than classes that receive nothing under the prepackaged plan and are, therefore, deemed to reject it) are eligible to vote on the prepackaged plan. As more fully explained in this prospectus/disclosure statement, a claim or equity interest is impaired, generally speaking, if its treatment under a plan of reorganization alters the terms of, or rights associated with, that claim or interest. The rights in respect of the convertible notes would be altered by the prepackaged plan and consequently holders of convertible notes may vote on the prepackaged plan.

For the purposes of the prepackaged plan, we have organized the various claims and interests against the Company into different classes. Holders of claims impaired by the prepackaged plan that are entitled to vote on the prepackaged plan will vote on the prepackaged plan by class. Under the prepackaged plan, members of the

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same class are treated the same. The claims of the lenders under our existing credit agreement are classified under the prepackaged plan as Class 3 claims, and the claims of holders of convertible notes are separately classified under the prepackaged plan as Class 5 Claims. See The Prepackaged Plan of Reorganization Summary of Classification and Treatment of Claims and Equity Interests under the Prepackaged Plan and The Prepackaged Plan Summary of Distributions under the Prepackaged Plan, for a description of the various classes of claims and equity interests under the prepackaged plan and their treatment.

**Q: What will I receive under the prepackaged plan if it is confirmed and consummated?**

A: For each $1,000 principal amount of convertible notes, you will, upon the terms and subject to the conditions set forth in this prospectus/disclosure statement and the prepackaged plan, receive $500 in cash and 390 shares of common stock. The cash payment and shares of common stock to be issued pursuant to the prepackaged plan will be in full satisfaction of the claims with respect to the convertible notes, including principal and accrued interest.

**Q: What vote is needed to confirm the prepackaged plan?**

A: The Bankruptcy Code provides that only holders of claims entitled to vote and who actually cast a ballot will be counted for purposes of determining whether acceptances from a sufficient number of holders of impaired claims in an impaired class of claims have been received to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired claims classes. Failure by a holder to deliver an original, duly completed and signed ballot will not be counted as a vote to accept or reject the prepackaged plan. See The Prepackaged Plan Vote Required for Class Acceptance of the Prepackaged Plan.

For the prepackaged plan to be confirmed by the bankruptcy court without invoking the cram-down provisions of the Bankruptcy Code, each class of claims or interests that is impaired must vote to accept the prepackaged plan. An impaired class of claims (such as holders of convertible notes) is deemed to accept a plan of reorganization if the holders of at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the claims in such class who actually cast ballots vote to accept the prepackaged plan. Under the prepackaged plan, the claims held by the lenders under our existing credit agreement and the claims held by holders of convertible notes constitute separate impaired classes of claims. Under the prepackaged plan, other classes of claims against and interests in the Company (other than holders of certain claims relating to section 510(b) of the Bankruptcy Code who are deemed to reject the prepackaged plan and are not entitled to vote), including existing holders of our common stock, are unimpaired and, therefore, conclusively presumed to accept the prepackaged plan. See The Prepackaged Plan Confirmation of the Prepackaged Plan Without Acceptance by All Classes of Impaired Claims.

If the prepackaged plan is confirmed by the bankruptcy court, it would bind all holders of claims and equity interests in the Company regardless of whether they voted for, against, or did not vote at all on, the prepackaged plan. Therefore, assuming the prepackaged plan satisfies the other requirements of the Bankruptcy Code, a significantly smaller number of claim holders can bind other claim holders to the terms of the prepackaged plan than are required to effect this exchange offer and the other transactions contemplated by the recapitalization plan. Additionally, since claims and equity interests are grouped in classes for the purpose of voting on the prepackaged plan, holders of claims and interests may be bound by the decisions of other claim or interest holders in a way that they otherwise would not outside of bankruptcy.

If we do not receive acceptances from a sufficient number of holders of impaired claims in an impaired class of claims to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired claims classes, the prepackaged plan will not be confirmed or become effective.

**Q: What are the effects of the prepackaged plan?**

Under the prepackaged plan, holders of convertible notes and the lenders under our existing credit agreement (as well as the holders of all other claims and interests) would receive the same treatment with respect to their

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claims (and interests) as they would receive in the recapitalization plan, the CD&R Fund would receive the same 250,000 shares of Series B convertible preferred stock contemplated by the CD&R investment and the Company would enter into the ABL agreement. Existing holders of our common stock would continue to hold such common stock. See Summary Liquidity and The Prepackaged Plan.

**Q: When is the deadline for submitting ballots?**

A: The ballots must be received by the voting agent by 11:59 p.m., New York City time, on the voting deadline, or October 7, 2009. If the voting deadline is extended, then the ballots must be received by the voting agent by any such extended voting deadline. In the case of an extension, we will notify the voting agent and issue a press release or other public announcement no later than 9:00 a.m., New York City time, on the next business day after the scheduled voting deadline. Ballots must be sent by mail, hand delivery or overnight courier to the voting agent, Financial Balloting Group LLC, by the voting deadline. Electronic and facsimile ballots will not be accepted.

See The Prepackaged Plan Holders of Claims Entitled to Vote; Voting Record Date and The Prepackaged Plan Solicitation and Voting Procedures Voting Deadline.

**Q: How do I vote on the prepackaged plan?**

A: Please follow the procedures for voting on the prepackaged plan described in the section titled The Prepackaged Plan Solicitation and Voting Procedures Voting Instructions.

For further information, contact the voting agent at its address and telephone number on the back cover of this prospectus/disclosure statement or consult your broker, dealer, commercial bank, trust company or other nominee for assistance.

Only the beneficial owners of convertible notes and/or term loans and other obligations under our existing credit agreement (or their authorized signatories) as of the voting record date are eligible to vote on the prepackaged plan.

**Q: Can I revoke my vote?**

A: Unless you are a party to the lock-up agreement or are otherwise restricted by the lock-up agreement, any party who has previously submitted to the voting agent prior to the voting deadline a properly completed ballot may revoke such ballot and change its vote by submitting to the voting agent, prior to the voting deadline, a subsequent properly completed ballot for acceptance or rejection of the prepackaged plan.

**Q: Whom do I call if I have any questions about how to submit ballots or any other questions relating to the prepackaged plan?**

A: Questions and requests for assistance with respect to the procedures for voting on the prepackaged plan, as well as requests for additional copies of this prospectus/disclosure statement and the ballot, may be directed to Financial Balloting Group, LLC, as the voting agent, at its address and telephone number set forth on the back cover of this prospectus/disclosure statement.

**Q: What risks should I consider in deciding whether to accept or reject the prepackaged plan?**

A:

In deciding whether to vote to accept or reject the prepackaged plan, you should carefully consider the discussion of risks and uncertainties affecting the Company, this exchange offer, the prepackaged plan and the common stock described in the section titled Risk Factors and the risk factors described in the documents incorporated by reference into this prospectus/disclosure statement.

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## SUMMARY

*This summary highlights some of the information contained, or incorporated by reference, in this prospectus/disclosure statement to help you understand our business and the restructuring, including the recapitalization plan (which includes this exchange offer) and the prepackaged plan. It does not contain all of the information that may be important to you. You should carefully read this prospectus/disclosure statement, including the information incorporated by reference into this prospectus/disclosure statement, to understand fully the terms of the restructuring, the recapitalization plan (which includes this exchange offer) and the prepackaged plan, as well as the other considerations that are important to you in making your investment decision. You should pay special attention to the Risk Factors beginning on page 26 and Cautionary Statement Regarding Forward-Looking Statements beginning on page 49.*

### Our Business

We are a leading North American integrated manufacturer and supplier of metal coil coating services, metal building components and engineered metal buildings systems. Of the $236 billion nonresidential construction industry in 2008, we primarily serve the low-rise nonresidential construction market (five stories or less), which, according to FW Dodge/McGraw-Hill, represents approximately 88% of the total nonresidential construction industry. Our broad range of products is used in repair, retrofit and new construction activities, primarily in North America.

We provide metal coil coating services for commercial and construction applications, servicing both internal and external customers. We design, engineer, manufacture and market what we believe is one of the most comprehensive lines of metal components and engineered building systems in the industry, with a reputation for high quality and superior engineering and design. We go to market with well-recognized brands, which allows us to compete effectively within a broad range of end-user markets, including industrial, commercial, institutional and agricultural. Our service versatility allows us to support the varying needs of our diverse customer base, which includes general contractors and subcontractors, developers, manufacturers, distributors and a network of over 4,400 authorized builders across North America.

We are comprised of a family of companies operating manufacturing facilities across the United States and Mexico, with additional sales and distribution offices throughout the United States and Canada. Our broad geographic footprint, along with our hub-and-spoke distribution system, allows us to efficiently supply a broad range of customers with high quality customer service and reliable deliveries.

The Company was founded in 1984 and reincorporated in Delaware in 1991. In 1998, we acquired Metal Building Components, Inc. and doubled our revenue base. With the merger, we became the largest domestic manufacturer of nonresidential metal components. In 2006, we acquired Robertson-Ceco II Corporation, which operates the Ceco Building Systems, Star Building Systems and Robertson Building Systems divisions of our business and is a leader in the metal buildings industry. This transaction has created an organization with greater product and geographic diversification, a stronger customer base and a more extensive distribution network than either company had separately.

Our principal offices are located at 10943 North Sam Houston Parkway West, Houston, Texas 77064, and our telephone number is (281) 897-7788. Our website address is *www.ncilp.com*. The information contained on our website is not part of this prospectus/disclosure statement.

### Liquidity

We believe that the completion of the restructuring through the recapitalization plan, or, in the alternative, through the prepackaged plan, is critical to our continuing viability. The restructuring, if successful, will increase the Company s capital and liquidity levels and reduce the amount of its outstanding debt. Specifically, upon the completion of the restructuring, we expect our indebtedness to be reduced from approximately $473.7 million as of August 2, 2009 to approximately $150.4 million at the closing of the restructuring, consisting of $150.0 million in principal amount of term loans under the amended credit agreement and $0.4 million of our industrial revenue bond. See Capitalization and Source and Use of Proceeds.

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The ABL financing contemplated by the restructuring would provide us with up to $125.0 million in liquidity, subject to availability under a borrowing base, for working capital purposes and future expansion. Based on discussions with prospective lenders under the ABL agreement, however, we expect that, because of borrowing base constraints, initial availability under the ABL agreement would be substantially less than the $125.0 million commitment, and may be as low as $45.0 million.

Assuming we are able to complete the restructuring, we expect that, for the foreseeable future, cash generated from operations, together with the proceeds of the ABL financing, will be sufficient to allow us to fund our operations, to increase working capital as necessary to support our strategy and to fund planned capital expenditures and expansions, including approximately $5.0 million expected, for the remainder of fiscal 2009.

## The Restructuring

**The Restructuring**

This exchange offer and solicitation of acceptances to the prepackaged plan are part of, and are being conducted pursuant to, the restructuring, which may be accomplished through an out-of-court recapitalization plan or, in the alternative, if the conditions to the recapitalization plan are not satisfied or waived, through an in-court prepackaged plan. The restructuring consists of four related transactions:

- the CD&R investment, which involves the sale and issuance to the CD&R Fund of 250,000 shares of Series B convertible preferred stock for $250.0 million;
- the retirement of all convertible notes;
- the term loan refinancing, which involves the refinancing of our existing credit facility under which we will repay approximately $143.3 million of the $293.3 million in principal amount of term loans outstanding under our existing credit facility and enter into an amendment to our existing credit agreement providing for a modification of the terms and maturity of the $150.0 million balance; and
- the ABL financing, which involves our entry into a $125.0 million asset-based loan facility.

Each of the transactions comprising the restructuring may be accomplished through either the out-of-court recapitalization plan or, in the alternative, the in-court prepackaged plan. If the restructuring is accomplished through the recapitalization plan, the retirement of the convertible notes tendered in the exchange offer would be accomplished through this exchange offer and the refinancing of our existing credit facility would be accomplished through an amendment to our existing credit agreement. In the alternative, if the restructuring is accomplished through the prepackaged plan, the retirement of the convertible notes as well as the refinancing of our existing credit facility would be accomplished through the effectiveness of the prepackaged plan. See The Restructuring.

The closing of the exchange offer is conditioned on the satisfaction or, with the consent of the CD&R Fund, waiver of the minimum tender condition, which requires that at least 95% of the aggregate principal amount of outstanding convertible notes are validly tendered and not withdrawn in this exchange offer. If the restructuring is accomplished through the recapitalization plan, we intend, but are not required, to

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retire any remaining convertible notes outstanding after the consummation of this exchange offer by exercising our redemption right under the convertible notes indenture on or after November 20, 2009; if we do not so exercise our redemption right, such remaining convertible notes will otherwise be retired pursuant to the terms of the convertible notes indenture.

For a more detailed description of this exchange offer, see The Exchange Offer.

See Liquidity above and The Restructuring for a discussion of the anticipated effects of the restructuring.

**Pro Forma Capitalization**

Assuming that we complete the restructuring and all outstanding convertible notes are retired through the exchange offer or the prepackaged plan, based on the number of shares of common stock authorized, issued and outstanding as of September 4, 2009, at the closing of, and after giving effect to, the restructuring:

- holders of convertible notes would receive 70,200,000 shares of our common stock in the aggregate (or approximately 24.5% of our voting power);
- the CD&R Fund would receive 250,000 shares of Series B convertible preferred stock (or approximately 68.5% of our voting power); and
- our current stockholders would continue to hold approximately 19,981,585 shares of our common stock in the aggregate (or approximately 7.0% of our voting power).

See Capitalization.

**Lock-Up Agreement**

We have entered into a lock-up and voting agreement with the holders of more than 79% of the aggregate principal amount of the outstanding convertible notes. Pursuant to the lock-up agreement, each holder of convertible notes that executed the lock-up agreement has irrevocably agreed, in accordance with the terms of the lock-up agreement, (1) to tender its convertible notes in this exchange offer, (2) to the extent that such holder holds obligations under our existing credit agreement, to support the term loan refinancing by accepting its portion of the repayment contemplated thereby and by executing an amendment to our existing credit agreement in the form of the amended credit agreement attached hereto as Annex J, and (3) to vote all of its convertible notes and obligations under our existing credit facility in favor of the prepackaged plan, among other things. See The Restructuring The Lock-Up Agreement.

**CD&R Investment**

Pursuant to the investment agreement, the CD&R Fund has agreed to purchase from the Company an aggregate of 250,000 shares of Series B convertible preferred stock, which represents approximately 68.5% of our

voting power after giving effect to the restructuring (based on the number of shares of common stock authorized, issued and outstanding as of September 4, 2009), for a total purchase price of $250.0 million in cash. See The Restructuring Description of the CD&R Investment.

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The obligation of the CD&R Fund to purchase the shares of Series B convertible preferred stock is subject to certain conditions, including the satisfaction or, with the consent of the CD&R Fund, waiver, of the conditions to this exchange offer or the effectiveness of the prepackaged plan, the consummation of the term loan refinancing (see Term Loan Refinancing below) and the ABL financing (see ABL Financing below) and the expiration or termination of any waiting period required to consummate the CD&R investment under the Austrian Act. The investment agreement may be terminated by the CD&R Fund or the Company under specified circumstances. See The Restructuring Description of the CD&R Investment The Investment Agreement Conditions to the CD&R Investment and The Restructuring Description of the CD&R Investment The Investment Agreement Termination of the Investment Agreement.

Holders of Series B convertible preferred stock will participate equally and ratably with the holders of common stock in all cash dividends paid on the shares of the common stock on an as-converted basis. In addition to such dividends, the Series B convertible preferred stock will accrue dividends at a rate *per annum* of 12.00% if paid in kind or at a rate *per annum* of 8.00% if paid in cash, which would be reduced to a rate *per annum* of 0.00% if, at any time after the 30-month anniversary of the closing of the restructuring, the trading price per share of common stock equals or exceeds two times a specified target price (which is equal to $1.2748 at the closing of the restructuring, but is subject to adjustments thereafter) for each trading day during any period of 20 consecutive trading days. Upon the occurrence of a default under the terms of the Series B convertible preferred stock, the applicable dividend rate will increase by:

6.00% *per annum,* if the default is the result of a failure by us after June 30, 2011 to reserve and keep available for issuance a number of shares of common stock equal to 110% of the number of shares of common stock issuable upon conversion of all outstanding shares of Series B convertible preferred stock; or

3.00% *per annum* for any other default.

See The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Dividends and The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Defaults.

The Series B convertible preferred stock is convertible into common stock at an initial conversion price of $1.2748, which conversion price is subject to anti-dilution adjustments, including adjustments if the Company issues common stock or other securities below the then-current market price or, during the first three years after the closing of the restructuring, below the

then-current conversion price. See The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Convertibility and Anti-Dilution Adjustments.

On and after the 10th anniversary of the closing of the restructuring:

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each holder of shares of Series B convertible preferred stock will have the right to require that the Company redeem all of such holder s shares of Series B convertible preferred stock; and

the Company will have the right to redeem all, but not less than all, of the then issued and outstanding shares of Series B convertible preferred stock.

In either case, the redemption price for each share of Series B convertible preferred stock redeemed will be an amount equal to the sum of (1) the liquidation preference of such share of Series B convertible preferred stock to be redeemed and (2) the accrued dividends of such share as of the date on which the redemption of such share occurs. See The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Milestone Redemption.

After giving effect to the restructuring, we do not expect to have sufficient authorized but unissued shares of common stock to enable the conversion of all 250,000 shares of Series B convertible preferred stock to be issued to the CD&R Fund pursuant to the CD&R investment. Pursuant to the stockholders agreement to be entered into between the Company and the CD&R Fund in connection with the CD&R investment (see The Restructuring Description of the CD&R Investment The Stockholders Agreement ), from and after the closing of the restructuring, we will use our best efforts and take all corporate actions necessary to obtain approval from holders of our common stock of an amendment to Article FOURTH, section 1 of our restated certificate of incorporation to increase the number of authorized shares of common stock. In the event that we do not obtain such approval prior to June 30, 2010, the dividend rate with respect to the Series B convertible preferred stock will increase by 3.00% *per annum* (and by an additional 3.00% *per annum* if such approval is not obtained prior to June 30, 2011, for an aggregate increase of 6.00% *per annum*) as further described in The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Dividends Default Dividend Rate. See The Restructuring Description of the CD&R Investment The Stockholders Agreement Agreement to Seek Amendments to our Restated Certificate of Incorporation.

**Retirement of Convertible Notes**

As part of the restructuring, we are seeking to retire all of the convertible notes. See This Exchange Offer below with respect to the retirement of convertible notes under the recapitalization plan and The Prepackaged Plan below with respect to the retirement of convertible notes under the prepackaged plan.

**Term Loan Refinancing**

As part of the restructuring, we expect to enter into an amendment to our existing credit agreement, providing for, among other things, the repayment of approximately $143.3 million of the $293.3 million in principal amount of term loans outstanding as of August 2, 2009 under our existing credit facility and a modification of the terms and maturity of the

$150.0 million balance. See The Restructuring Description of the Term Loan Refinancing and the ABL Financing The Term Loan Refinancing.

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| | The closing of the term loan refinancing through the recapitalization plan requires 100% of the lenders under our existing credit agreement to enter into the amended credit agreement. Confirmation and effectiveness of the prepackaged plan requires lenders under our existing credit facility holding at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the claims in respect of the obligations under our existing credit agreement who actually cast ballots to vote to accept the prepackaged plan. See Summary of Terms of the Restructuring The Prepackaged Plan. |
| **ABL Financing** | As part of the restructuring, we expect to enter into an ABL agreement providing for a $125.0 million asset-based loan facility. See The Restructuring Description of the Term Loan Refinancing and the ABL Financing The ABL Financing.<br><br>Whether the restructuring is accomplished through the recapitalization plan or the prepackaged plan, the closing of the ABL financing requires the approval and execution of the ABL agreement by all lenders providing revolving credit commitments thereunder. |
| **Importance of Tendering in this Exchange Offer and Voting to Accept the Prepackaged Plan** | Both the recapitalization plan and the prepackaged plan are subject to certain conditions. In particular, the consummation of the recapitalization plan requires that the conditions to this exchange offer are met, including the minimum tender condition. The confirmation and effectiveness of the prepackaged plan requires the receipt of acceptances from a sufficient number of holders of impaired claims in an impaired class of claims to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired claims classes.<br><br>See also Questions and Answers About the Restructuring General Why is it important that I tender my convertible notes and vote to accept the prepackaged plan? |
| **Risk Factors** | You should carefully consider the matters described in this prospectus/disclosure statement under Risk Factors, and the risk factors described in the documents incorporated by reference into this prospectus/disclosure statement. |
| **Certain U.S. Federal Income Tax Considerations** | For a discussion of certain U.S. federal income tax considerations for holders of convertible notes, see Certain U.S. Federal Income Tax Considerations. |
| **Accounting Treatment** | For a description of the accounting treatment of the restructuring, see Accounting Treatment. |
| **Fees and Expenses** | We will pay all fees and expenses associated with this exchange offer and the solicitation of acceptances to the prepackaged plan, other than any |

commissions or concessions of any broker or dealer. Excluding fees and expenses related to the CD&R Investment and the other transactions contemplated by the investment agreement separate from the exchange offer and this consent solicitation, we expect that we will incur fees and expenses of approximately $7.3 million, based on

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| | estimated legal, accounting, exchange agent, voting agent, dealer-manager, trustee, printing and other expenses associated with this exchange offer and the solicitation of acceptances to the prepackaged plan. See The Exchange Offer Fees and Expenses. |
| **Listing** | We intend to apply for the shares of common stock to be issued pursuant to this exchange offer, or in the alternative, pursuant to the prepackaged plan, to be listed on the NYSE. |
| **Transferability; Registration Rights** | Other than for any shares issued in respect of convertible notes subject to the lock-up agreement, the shares of common stock to be issued pursuant to this exchange offer will be freely transferable and not subject to any transfer restrictions unless held by our affiliates as that term is defined under Rule 144 under the Securities Act. If the restructuring is accomplished through the prepackaged plan, we expect that the confirmation order of the bankruptcy court will provide that the issuance of the shares of common stock distributed under the prepackaged plan shall be exempt from the registration requirements of the Securities Act in accordance with section 1145 of the Bankruptcy Code and therefore will be freely transferable by most recipients thereof, and all resales and subsequent transactions in the new securities will be exempt from registration under federal and state securities laws, unless the holder is an underwriter with respect to such securities.<br><br>In the lock-up agreement, we agreed to enter into a registration rights agreement containing customary indemnification provisions for selling shareholders that will provide registration rights to the noteholders who are parties to the lock-up agreement in the event that this exchange offer is consummated. Under such registration rights agreement, and subject to customary blackout periods in connection with earnings releases and material corporate developments, we will:<br><br>no later than five business days following the closing of the CD&R investment, file with the SEC a shelf registration statement covering resales of the common stock received by such noteholders on a delayed or continuous basis; and<br><br>use our best efforts to maintain the effectiveness of such registration until the earlier of (a) six months after the closing of the CD&R investment (subject to an extension to 12 months after the closing in certain limited circumstances) and (b) the date on which all such common stock held by such noteholders can be resold pursuant to Rule 144 under the Securities Act without limitation as to volume or compliance with any manner of sale requirements.<br><br>For more information with respect to the terms of the lock-up agreement, see The Restructuring The Lock-Up Agreement. |

**This Exchange Offer**

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| **Securities Subject to this Exchange Offer** | Any and all of our $180.0 million aggregate principal amount of 2.125% Convertible Senior Subordinated Notes due 2024, which we refer to as the convertible notes. |

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| **Exchange Offer** | We are offering to acquire any and all of the convertible notes for cash and shares of common stock, in accordance with the terms and subject to the conditions set forth in this prospectus/disclosure statement and in the letter of transmittal. You may tender your convertible notes for exchange by following the procedures described in the section titled The Exchange Offer Procedures for Tendering Convertible Notes.<br><br>For each $1,000 principal amount of convertible notes that you tender and that we accept in this exchange offer, you will, upon the terms and subject to the conditions set forth in this prospectus/disclosure statement and the letter of transmittal, receive $500 in cash and 390 shares of common stock. The cash payment and the shares of common stock to be issued pursuant to this exchange offer will be in full satisfaction of the principal amount of, and any accrued but unpaid interest through the consummation of this exchange offer on, the convertible notes so tendered and accepted. See The Exchange Offer Terms of the Exchange Offer. |
| **Minimum Tender Condition; Other Conditions to this Exchange Offer** | This exchange offer is subject to certain conditions, including, among others, (1) the satisfaction of the minimum tender condition, which requires that at least 95% of the aggregate principal amount of outstanding convertible notes are validly tendered and not withdrawn in this exchange offer, (2) the receipt of proceeds from the purchase by the CD&R Fund of the Series B convertible preferred stock pursuant to the investment agreement, which purchase itself is subject to several conditions, including the satisfaction of the conditions to this exchange offer, the consummation of the term loan refinancing and the ABL financing and the expiration or termination of any waiting period required to consummate the CD&R investment under the Austrian Act, and (3) the effectiveness of the registration statement of which this prospectus/disclosure statement forms a part. See The Exchange Offer Conditions to Completion of the Exchange Offer. |
| **Information Agent** | Morrow & Co., LLC. |
| **Exchange Agent** | Computershare Trust Company, N.A. |
| **Dealer-Manager** | Greenhill & Co., LLC. |
| **Use of Proceeds** | We will not receive any cash proceeds from this exchange offer. Convertible notes that are validly tendered and exchanged pursuant to this exchange offer will be retired and canceled. See Source and Use of Proceeds. |
| | **The Prepackaged Plan** |
| **Prepackaged Plan** | We have prepared the prepackaged plan as an alternative to the recapitalization plan for accomplishing the restructuring if the conditions to completion of the recapitalization plan, including, for example, the |

minimum tender condition, are not satisfied or waived, but we receive acceptances from a sufficient number of holders of impaired claims in an impaired class of claims to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of

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| | section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired claims classes.<br><br>The prepackaged plan consists of a plan of reorganization under chapter 11 of the Bankruptcy Code that would effect the same transactions contemplated by the recapitalization plan, including the issuance of shares of Series B convertible preferred stock in connection with the CD&R investment, the issuance of shares of common stock in exchange for convertible notes, the term loan refinancing and the ABL financing. If confirmed, the prepackaged plan would be binding on all of our creditors regardless of whether such creditors voted to accept or reject the prepackaged plan. See The Prepackaged Plan.<br><br>Under the prepackaged plan, holders of convertible notes and the lenders under our existing credit agreement (as well as the holders of all other claims and interests) would receive the same treatment with respect to their claims (and interests) as they would receive in the recapitalization plan, the CD&R Fund would receive the same 250,000 shares of Series B convertible preferred stock contemplated by the CD&R investment and the Company would enter into the ABL agreement. Existing holders of our common stock would continue to hold such common stock. See The Prepackaged Plan.<br><br>If we do not receive acceptances from a sufficient number of holders of impaired claims in an impaired class of claims to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired claims classes, the prepackaged plan will not be confirmed or become effective. |
| **Voting Record Date** | The voting record date for determining the holders of claims entitled to vote on the prepackaged plan is August 28, 2009. See The Prepackaged Plan Holders of Claims Entitled to Vote; Voting Record Date. |
| **Conditions to the Effective Date of the Prepackaged Plan** | The effective date of the prepackaged plan will not occur until the conditions set forth below have been satisfied or waived:<br><br>the confirmation order has been entered and no stay of such order is in effect;<br><br>the receipt of proceeds from the CD&R investment;<br><br>the consummation of the term loan refinancing; and<br><br>the consummation of the ABL financing.<br><br>We retain the right to waive any condition in our sole and absolute discretion, subject to our obligations under the investment agreement. See The Prepackaged Plan Conditions to the Effective Date of the Prepackaged |

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| | Plan and The Restructuring Description of the CD&R Investment The Investment Agreement Commencement of a Reorganization Case in Connection With the Prepackaged Plan Covenant. |
| **Voting Agent** | Financial Balloting Group LLC. |

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## Capitalization

The following table sets forth our capitalization (1) as of August 2, 2009 on a preliminary, unaudited basis and (2) on an as adjusted basis, giving effect to the pro forma impact of the transactions contemplated by the recapitalization plan, which include (1) the retirement of the convertible notes (assuming 100% of the convertible notes are retired), (2) the CD&R Investment, (3) the term loan refinancing and (4) the ABL financing. The pro forma capitalization presented in this section does not give effect to the pro forma impact of the transactions contemplated by the prepackaged plan. The filing of a prepackaged plan would result in the application of restart accounting which could significantly change to recorded value of asset, liabilities and stockholders equity.

We use the assumptions above for illustrative purposes only. This table should be read in conjunction with the Selected Consolidated Financial and Other Data and Unaudited Pro Forma Financial Information elsewhere in this prospectus/disclosure statement, the financial statements and schedules and related notes for the fiscal year ended 2008 that are included in the consolidated financial statements for the fiscal year ended in 2008, which are attached as Exhibit 99.1 to our current report on Form 8-K filed with the SEC on September 10, 2009 and the consolidated financial statements and related notes for the quarters ended February 1, 2009, May 3, 2009 and August 2, 2009 contained in our Quarterly Reports on Form 10-Q, which are incorporated by reference into this prospectus/disclosure statement.

| | As of August 2, 2009 | |
|---|---|---|
| | Actual | As Adjusted |
| | (Unaudited, in thousands, except for share data) | |
| Cash and cash equivalents(1)(4) | $ 105,376 | $ 63,124 |
| Restricted Cash(2) | 13,224 | 13,224 |
| Note Payable | 962 | 962 |
| Debt | | |
| $125 Million Senior Secured Revolving Credit Facility | | |
| $400 Million Term Loan, due 2010 ($150 Million Term Loan, due 2014, amended and restated) | 293,290 | 150,000 |
| 2.125% Convertible Senior Subordinated Notes, Due 2024 | 180,000 | |
| Industrial Revenue Bond | 420 | 420 |
| Total Debt | 473,710 | 150,420 |
| Series B Convertible Preferred Stock: $1.00 par value per share, 250,000 shares authorized, issued and outstanding, as adjusted | | 212,579 |
| Stockholders equity (deficit): | | |
| Series A Preferred Stock: $1.00 par value per share, 1,000,000 shares authorized, none issued and outstanding | | |
| Common Stock: $0.01 par value per share, 100,000,000 shares authorized; 22,683,165 issued; and 19,982,173 outstanding, actual; 100,000,000 shares authorized; 93,217,165 issued; and 90,516,173 outstanding as adjusted(3)(4) | 227 | 929 |

| | | |
|---|---|---|
| Additional paid-in capital(4) | 203,401 | 384,974 |
| Retained earnings (deficit)(4) | (103,882) | (215,324) |
| Accumulated other comprehensive income (loss)(4) | (917) | 975 |
| Treasury stock, at cost | (117,050) | (117,050) |
| Total stockholders equity (deficit) | (18,221) | 54,504 |
| Total capitalization | $ 456,451 | $ 418,465 |
| Book Value per share | | |
| Basic | (0.91) | 0.60 |
| Diluted | (0.91) | 0.60 |

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(1) Cash equivalents are stated at cost plus accrued interest, which approximates fair value. Cash equivalents are highly liquid debt instruments with an original maturity of three months or less and may consist of time deposits with a number of commercial banks with high credit ratings, Eurodollar time deposits, certificates of deposit and commercial paper.

(2) Restricted cash is stated at cost plus accrued interest, which approximates fair value. Restricted cash is held as deposited collateral for letters of credit.

(3) Share amounts as presented reflect the 70,200,000 shares of common stock to be issued to repay a portion of the convertible notes and the 334,000 shares of common stock to be issued related to the accelerated vesting of shares issued under the 2003 Long-Term Stock Incentive Plan. If fully converted, the Series B convertible preferred stock would result in an additional 196,109,194 shares of common stock outstanding.

(4) See Unaudited Pro Forma Condensed Consolidated Balance Sheet and Notes to Unaudited Pro Forma Condensed Balance Sheet for explanations of significant adjustments to cash and cash equivalents, additional paid-in capital, accumulated other comprehensive loss, and retained deficit.

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## Selected Consolidated Financial and Other Data

The following table sets forth selected consolidated financial and other data for each of the fiscal years ended in 2008, 2007, 2006, 2005 and 2004 and for the nine months ended August 2, 2009 and July 27, 2008. Operating results for the fiscal nine months period ended August 2, 2009 and July 27, 2008 are not necessarily indicative of the results that may be expected for the full fiscal year. The selected consolidated financial and other data below is only a summary and should be read in conjunction with Management s Discussion and Analysis of Financial Condition and Results of Operations and our consolidated financial statements contained in Part III, Item 15, (a)(1) and (a)(2) of our annual reports on Form 10-K (except with respect to the consolidated financial statements for the fiscal year ended in 2008, which are attached as Exhibit 99.1 to our current report on Form 8-K filed with the SEC on September 10, 2009) and in Part I, Item 1 of our quarterly reports on Form 10-Q and with the current reports filed by us with the SEC, which are incorporated by reference herein. See Where You Can Find More Information and Incorporation of Certain Documents by Reference. The historical financial information presented may not be indicative of our future performance.

| | Nine Months Ended | | Fiscal Year | | | | |
|---|---|---|---|---|---|---|---|
| | August 2, 2009 | July 27, 2008 | 2008(1) | 2007 | 2006 | 2005 | 2004 |
| | (In thousands, except per share data) | | | | | | |
| **Statement of Operations Data:** | | | | | | | |
| Sales | $ 723,522 | $ 1,255,228 | $ 1,764,159 | $ 1,625,068 | $ 1,571,183 | $ 1,130,066 | $ 1,084,863 |
| Cost of sales | 568,773 | 940,095 | 1,325,624 | 1,221,463 | 1,187,151 | 850,699 | 822,722 |
| Lower of cost or market adjustment | 39,986 | | | | | | |
| Asset impairment | 5,944 | | | | | | |
| Gross Profit | 108,819 | 315,133 | 438,535 | 403,605 | 384,032 | 279,367 | 262,141 |
| Selling, general and administrative expenses | 158,564 | 210,501 | 283,825 | 271,871 | 246,044 | 174,897 | 165,165 |
| Goodwill and other intangible asset impairments | 622,564 | | | | | | |
| Restructuring charge | 7,488 | 909 | | | | | |
| Income (loss) from operations | (679,797) | 103,723 | 154,710 | 131,734 | 137,988 | 104,470 | 96,976 |
| Interest income | 360 | 917 | 1,085 | 725 | 5,432 | 5,019 | 68 |
| Interest expense | (13,029) | (17,859) | (23,535) | (28,829) | (24,915) | (14,459) | (15,126) |
| Loss on debt refinancing | | | | | | | (9,879) |
| Other (expense) income, net | 757 | 1,022 | (1,880) | 1,195 | 527 | 1,181 | 2,618 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Income (loss) before income taxes | (691,709) | 87,803 | 130,380 | 104,825 | 119,032 | 96,211 | 74,657 |
| Provision (benefit) for income taxes | (46,863) | 33,536 | 51,499 | 41,096 | 45,236 | 40,260 | 29,767 |
| Net income (loss) | (644,846) | 54,267 | 78,881 | 63,729 | 73,796 | 55,951 | 44,890 |
| Earnings (loss) per share: | | | | | | | |
| Basic | $ (33.12) | $ 2.81 | $ 4.08 | $ 3.25 | $ 3.70 | $ 2.73 | $ 2.28 |
| Diluted | $ (33.12) | $ 2.79 | $ 4.05 | $ 3.06 | $ 3.45 | $ 2.68 | $ 2.24 |
| Weighted average shares outstanding: | | | | | | | |
| Basic | 19,468 | 19,308 | 19,332 | 19,582 | 19,959 | 20,501 | 19,709 |
| Diluted | 19,468 | 19,455 | 19,486 | 20,793 | 21,395 | 20,857 | 19,996 |
| Ratio of Earnings to Fixed Charges(2) | (3) | 5.40 | 5.95 | 4.27 | 5.30 | 6.93 | 5.48 |

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(1) Fiscal 2008 includes 53 weeks of operating activity.

(2) For purposes of calculating the ratio of earnings to fixed charges: (a) earnings are defined as earnings (loss) from continuing operations before provision for income taxes and fixed charges; and (b) fixed charges consist of net interest expense on all indebtedness, deferred financing charges and an estimate of the interest within rental expense.

(3) The pre-tax loss from continuing operations for the fiscal nine months ended August 2, 2009 were not sufficient to cover fixed charges by a total of $676,787. As a result, the ratio of earnings to fixed charges has not been computed for this period.

| | Nine Months Ended | | Fiscal Year | | | | |
|---|---|---|---|---|---|---|---|
| | August 2, 2009 | July 27, 2008 | 2008(1) | 2007 | 2006 | 2005 | 2004 |
| | (In thousands, except per share data) | | | | | | |
| **Statement of Cash Flows and Balance Sheet Data:** | | | | | | | |
| Cash flow from operating activities | $ 75,340 | $ 3,224 | $ 40,194 | $ 137,625 | $ 121,514 | $ 118,267 | $ 23,730 |
| Total assets | 627,635 | 1,396,696 | 1,380,701 | 1,343,058 | 1,299,701 | 990,219 | 786,426 |
| Total debt | 473,710 | 474,630 | 474,400 | 497,037 | 497,984 | 373,000 | 216,700 |
| Stockholders equity (deficit) | (18,221) | 598,650 | 623,829 | 539,696 | 498,409 | 444,144 | 401,177 |
| Cash dividends per share(2) | | | | | | | |

(1) Fiscal 2008 includes 53 weeks of operating activity.

(2) We did not pay dividends on our common stock for any of the periods referred to above.

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**Selected Unaudited Pro Forma Consolidated Financial Data**

The following selected unaudited pro forma consolidated financial data for the year ended November 2, 2008, and as of and for the nine months ended August 2, 2009 has been derived by the application of pro forma adjustments to our historical consolidated financial statements. The selected unaudited pro forma consolidated financial data is presented for illustrative purposes only and is not necessarily indicative of the financial position or results of operations that would have actually been reported had the recapitalization plan occurred at the beginning of the periods presented, nor is it indicative of our future financial position or results of operations.

The unaudited pro forma financial information presented in this prospectus/disclosure statement does not give effect to the pro forma impact of the transactions contemplated by the prepackaged plan. The filing of a prepackaged plan would result in the application of restart accounting which could significantly change to recorded value of asset, liabilities and stockholders equity.

The unaudited pro forma adjustments were prepared based on the assumptions we believe are reasonable. The unaudited pro forma summary selected consolidated balance sheet as of August 2, 2009, gives effect to the recapitalization plan as if it had occurred on August 2, 2009. The unaudited pro forma summary selected condensed consolidated statements of operations for the year ended November 2, 2008, and the nine months ended August 2, 2009, give effect to the recapitalization plan as if it had occurred on October 29, 2007.

Due to the fact that the transactions contemplated by the recapitalization plan have not yet been completed, except as indicated, the unaudited pro forma summary selected financial information assumes that:

- 100% of the convertible notes are exchanged for a combination of $500 in cash and 390 shares of common stock for each $1,000 principal amount of the convertible notes and accrued and unpaid interest thereon;
- the conversion price of the Series B convertible preferred stock to be issued in the CD&R investment is $1.2748 per share of common stock;
- the restructuring is effected through the consummation of the recapitalization plan as opposed to the prepackaged plan;
- the market price for common stock for all computations is $2.61 per share, which was the closing market price on September 4, 2009; and
- the fair market value of the derivative liability related to default dividend rates is expected to be $7.5 million ($4.6 million net of tax) in all periods.

If (1) the consideration offered in this exchange offer changes, (2) the conversion price of the Series B convertible preferred stock changes (see The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Convertibility and Anti Dilution Adjustments ) and/or (3) we are required to file the prepackaged plan (see The Prepackaged Plan ), the unaudited pro forma adjustments could be materially different. These adjustments could result in significant differences in the estimates for the embedded derivative liability of the Series B convertible preferred stock, the estimated beneficial conversion feature of the Series B convertible preferred stock, and the estimated debt extinguishment cost of the convertible notes.

The selected unaudited pro forma consolidated financial information has been derived from our consolidated financial statements for the fiscal year ended in 2008, which are attached as Exhibit 99.1 to our current report on Form 8-K filed with the SEC on September 10, 2009 and our consolidated financial statements for the quarterly period ended August 2, 2009, which are included in our quarterly report on Form 10-Q, each of which is incorporated herein by reference and should be read in conjunction with Selected Consolidated Financial and Other Data and Unaudited Pro Forma Financial Information and the consolidated financial statements and related notes included in this prospectus/disclosure statement. Our financial statements and schedules included in this prospectus/disclosure statement have been prepared on the assumption that we have the ability to continue as a going concern. The financial statements do not include any adjustments related to the recoverability and classification of asset carrying amounts or the amount and classification of liabilities that might result should we be unable to continue as a going concern.

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| | Pro Forma (unaudited) | |
|---|---|---|
| | Nine Months Ended August 2, 2009 | Year Ended November 2, 2008 |
| | (In thousands, except per share data) | |
| **Statement of Operations Data:** | | |
| Sales | $ 723,522 | $ 1,764,159 |
| Net income (loss) | (642,241) | 89,214 |
| Dividends and accretion on Series B convertible preferred stock | 28,898 | 35,119 |
| Net income (loss) available to common stockholders | $ (671,139) | 54,095 |
| Earnings (loss) per share: | | |
| Basic | $ (2.15) | $ 0.18 |
| Diluted | $ (2.15) | $ 0.18 |
| Weighted average shares outstanding: | | |
| Basic | 90,002 | 89,866 |
| Diluted | 90,002 | 89,866 |

| | Pro Forma (unaudited) As of August 2, 2009 |
|---|---|
| | (In thousands, except per share data) |
| **Balance Sheet Data:** | |
| Total assets | $ 591,154 |
| Total debt | 150,420 |
| Series B convertible preferred stock | 212,579 |
| Stockholders equity | 54,504 |

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## RISK FACTORS

*Before you participate in this exchange offer or vote on the prepackaged plan, you should carefully consider the risks described below. You should also consider the other information included or incorporated by reference in this prospectus/disclosure statement before deciding whether to participate in this exchange offer or how to vote on the prepackaged plan.*

### Risks Relating to NOT Accepting the Exchange Offer or Rejecting the Prepackaged Plan

*The following risks specifically apply to the extent a holder of convertible notes elects not to participate in this exchange offer or to vote against the prepackaged plan. There are additional risks attendant to being an investor in our securities that you should review, whether or not you elect to tender your convertible notes. These risks are described in Risk Factors in Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended November 2, 2008 and Part II, Item 1A of our Quarterly Reports on Form 10-Q for the quarterly periods ended February 1, 2009, May 3, 2009 and August 2, 2009, each of which is incorporated by reference herein.*

**If the minimum tender condition is not met for this exchange offer and we cannot implement the recapitalization plan, there nonetheless may be sufficient votes to accept the prepackaged plan to accomplish the restructuring.**

The consummation of this exchange offer is conditioned upon, among other things, satisfaction of the minimum tender condition. If we are not able to complete the recapitalization plan because the minimum tender condition is not met or waived or for any other reason, but we receive acceptances from a sufficient number of holders of impaired claims in an impaired class of claims to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired claims classes, as an alternative to the recapitalization plan, we may elect and, under the terms of the investment agreement, we may be required, to seek confirmation of the prepackaged plan in a chapter 11 proceeding.

To obtain confirmation of the prepackaged plan without invoking the cram-down provisions of the Bankruptcy Code, each class of claims or interests that is impaired must vote to accept the prepackaged plan. An impaired class of claims (such as holders of convertible notes) is deemed to accept a plan of reorganization if the holders of at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the claims in such class who actually cast ballots vote to accept the prepackaged plan. If the prepackaged plan is confirmed by the bankruptcy court, it will bind all holders of claims against, and equity interests in, the Company regardless of whether they voted for, against or did not vote at all on the prepackaged plan.

Therefore, assuming the prepackaged plan satisfies the other requirements of the Bankruptcy Code, a significantly smaller number of claim holders can bind other claim holders to the terms of the prepackaged plan than are required to effect this exchange offer and the other transactions contemplated by the recapitalization plan. Additionally, since claims and equity interests are grouped in classes for the purpose of voting on the prepackaged plan, holders of claims and interests may be bound by the decisions of other claim or interest holders in a way that they otherwise would not outside of bankruptcy.

The confirmation and effectiveness of the prepackaged plan are subject to certain conditions that may not be satisfied and are different from those under the recapitalization plan. We cannot assure you that all requirements for confirmation and effectiveness of the prepackaged plan will be satisfied or that the bankruptcy court will conclude that

the requirements for confirmation and effectiveness of the prepackaged plan have been satisfied. See The Prepackaged Plan Confirmation of the Prepackaged Plan and The Prepackaged Plan Conditions to the Effective Date of the Prepackaged Plan.

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**If we are not able to consummate the exchange offer, the prepackaged plan or the CD&R investment, we do not expect that we will be able to meet our obligations to repurchase the convertible notes pursuant to the rights of the holders thereof to such repurchase on November 15, 2009, and we will likely be in default under our existing credit agreement, the convertible notes indenture, and our swap agreement on November 6, 2009 and our obligations under such agreements may become immediately due and payable.**

The consummation of the exchange offer or, in the alternative, confirmation of the prepackaged plan, is a condition to the CD&R investment and the term loan refinancing to accomplish the restructuring. If we are unable to consummate the restructuring, we do not expect that we will have, or have access to, sufficient liquidity to meet our debt obligations. As a result, we will have an immediate need to pursue other alternatives to manage our liquidity needs, including potentially filing for bankruptcy protection on terms other than as contemplated by the prepackaged plan. See Risk Factors If we do not consummate the restructuring by November 6, 2009, adverse capital and credit market conditions may significantly and adversely affect our ability to otherwise refinance our existing debt.

Unless we consummate the restructuring, we do not expect that we will have, or have access to, sufficient liquidity to meet our debt repayment/repurchase obligations, including any potential acceleration of our existing term loan indebtedness and our obligation to repurchase the convertible notes at the option of the holders thereof on November 15, 2009, the next scheduled repurchase date. Due to our non-compliance as of August 2, 2009 with the required leverage, senior leverage and interest coverage ratios in our existing credit agreement, our outstanding indebtedness of approximately $293.3 million thereunder may be declared immediately due and payable as early as November 6, 2009, the date the current waiver from the lenders under our existing credit agreement expires. In the event that we do not repay such borrowings upon acceleration, the lenders under our existing credit agreement could exercise their remedies as secured creditors with respect to the collateral securing such borrowings. A failure to pay or refinance such borrowings will also result in a default under the convertible notes indenture, which could also then be declared immediately due and payable, and under our swap agreement, which could then be terminated by the counterparty thereto. If all such indebtedness, which totaled approximately $473.7 million as of August 2, 2009 and such amounts payable pursuant to the termination of the swap agreement, were to become due and payable on November 6, 2009, it would result in a material adverse effect on our financial condition, operations and debt service capabilities. As of August 2, 2009, excluding restricted cash, we had a current cash balance of approximately $105.4 million to address our liquidity needs. For a description of our non-compliance with the financial ratio covenants under our existing credit agreement, see our quarterly report on Form 10-Q for the quarter ended August 2, 2009, our current reports on Form 8-K filed on May 21, 2009, July 15, 2009 and August 27, 2009 and Incorporation of Certain Documents by Reference.

In such event, we will have an immediate need to pursue other alternatives to manage our liquidity needs, including potentially filing for bankruptcy protection on terms other than as contemplated by the prepackaged plan. We do not expect, and there can be no assurance, that any alternative to such bankruptcy filing would be found. There can be no assurance as to the value, if any, that would be available to holders of convertible notes in the case of any such bankruptcy filing. The convertible notes are unsecured obligations of the Company and rank junior to the secured obligations under our existing credit facility. Accordingly, upon any distribution to our creditors in any foreclosure, dissolution, winding-up, liquidation or reorganization, or other bankruptcy proceeding relating to us or our property, the holders of our term loans under our existing credit facility will be entitled to be paid in full before any payment may be made with respect to the convertible notes.

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**If we are unable to consummate this exchange offer, the prepackaged plan or the CD&R investment, the Company will face an immediate liquidity crisis that could likely result in the Company filing for bankruptcy protection on terms other than as contemplated by the prepackaged plan, which could materially adversely affect the relationships between us and our existing and potential customers, employees, partners and other stakeholders.**

We believe that seeking relief under the Bankruptcy Code by filing for bankruptcy protection on terms other than as contemplated by the prepackaged plan could materially adversely affect the relationships between us and our existing and potential customers, employees, partners and other stakeholders. For example:

- such a bankruptcy filing could erode our customers confidence in our ability to provide our products and services and, as a result, there could be a significant and precipitous decline in our revenues, profitability and cash flow;
- employees could be distracted from performance of their duties, or more easily attracted to other career opportunities;
- it may be more difficult to attract or replace key employees;
- lenders and other partners could seek to terminate their relationship with us, require financial assurances or enhanced performance, or refuse to provide credit on the same terms as prior to the reorganization case;
- we could be forced to operate in bankruptcy for an extended period of time while we tried to develop a reorganization plan that could be confirmed, which we believe may impair our business and prospects;
- our suppliers, vendors, and service providers could terminate their relationship with us or require financial assurances or enhanced performance;
- we may not be able to obtain debtor-in-possession financing to sustain us during the bankruptcy case under the Bankruptcy Code; or
- if we are not able to confirm and implement a plan of reorganization or if sufficient debtor-in-possession financing is not available, we may be forced to liquidate under chapter 7 of the Bankruptcy Code.

In addition, any distributions that you may receive in respect of your convertible notes under a liquidation or under a protracted reorganization case or cases under the Bankruptcy Code other than in connection with the prepackaged plan would likely be substantially delayed and the value of any potential recovery likely would be adversely impacted by such delay.

Furthermore, in the event of any foreclosure, dissolution, winding-up, liquidation or reorganization, or other bankruptcy proceeding other than in connection with the prepackaged plan, there can be no assurance as to the value, if any, that would be available to holders of convertible notes. The convertible notes are unsecured obligations of the Company and rank junior to the secured obligations under our existing credit facility. Accordingly, upon any distribution to our creditors in any foreclosure, dissolution, winding-up, liquidation or reorganization, or other bankruptcy proceeding relating to us or our property other than in connection with the prepackaged plan, the holders of our indebtedness under our existing credit facility will be entitled to be paid in full before any payment may be made with respect to the convertible notes. If you do not tender your convertible notes or vote to accept the prepackaged plan, you may receive less value for the convertible notes in the event of any foreclosure, dissolution, winding-up, liquidation or reorganization, or other bankruptcy proceeding other than the prepackaged plan than you

would under the restructuring.

**Risks Relating to Accepting the Exchange Offer or to the Effectiveness of the Prepackaged Plan and Becoming Holders of Common Stock**

*The following risks specifically apply only to holders of common stock issued pursuant to this exchange offer or, in the alternative, the prepackaged plan, and should be considered, along with the other risk factors, by holders of convertible notes. There are additional risks attendant to being an investor in our securities that you should review, whether or not you elect to tender your convertible notes. These risks are described in Risk Factors in Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended November 2, 2008, and Part II, Item 1A*

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*of our Quarterly Reports on Form 10-Q for the quarterly periods ended February 1, 2009, May 3, 2009 and August 2, 2009, each of which is incorporated by reference herein.*

**The exchange ratio for this exchange offer or, in the alternative, the prepackaged plan does not reflect any independent valuation of the convertible notes or shares of common stock.**

We have not obtained or requested, and do not intend to obtain or request, a fairness opinion from any banking or other firm as to the fairness of the exchange ratios or the relative values of convertible notes and shares of common stock. If you tender your convertible notes or vote to accept the prepackaged plan and the exchange offer is consummated or the prepackaged plan is confirmed and becomes effective, you may or may not receive more than or as much value as you would if you choose to keep your convertible notes (whether this exchange offer was or was not consummated) or if the prepackaged plan did not become effective and in the event of any foreclosure, dissolution, winding-up, liquidation or reorganization, or other bankruptcy proceeding other than in connection with the prepackaged plan, you may have a smaller claim than if you had retained your convertible notes and you may recover less than you would have had you retained your convertible notes.

**The consummation of each of this exchange offer and the prepackaged plan is subject to satisfaction of certain conditions, including the receipt of proceeds from the CD&R investment.**

The consummation of this exchange offer is subject to the receipt of proceeds from the CD&R investment (which is itself subject to several conditions, including the consummation of the term loan refinancing and the ABL financing and the expiration or termination of any waiting period required to consummate the CD&R investment under the Austrian Act (see The Restructuring Description of the CD&R Investment The Investment Agreement Conditions to the CD&R Investment )), the minimum tender condition and effectiveness of the registration statement of which this prospectus/disclosure statement forms a part. See The Exchange Offer Conditions to Completion of the Exchange Offer.

The effective date of the prepackaged plan is subject to the entry of the confirmation order and the absence of a stay of such order, the receipt of proceeds from the CD&R investment, the consummation of the term loan refinancing, the consummation of the ABL financing and such other conditions as to which the Company and the CD&R Fund may reasonably agree. See The Prepackaged Plan Conditions to the Effective Date of the Prepackaged Plan.

There can be no assurance that any of such conditions will be met.

**Holders of the convertible notes who participate in this exchange offer or, in the alternative, receive common stock pursuant to the prepackaged plan will lose their rights under the convertible notes indenture.**

Holders whose convertible notes are accepted for exchange and receive shares of common stock, or holders who receive shares of common stock pursuant to the prepackaged plan, will lose all rights associated with the convertible notes. Please see The Exchange Offer Material Differences in the Rights of Holders of Convertible Notes and Common Stock for a more detailed description of the material differences in your rights as a result of the restructuring.

**There are risks associated with the common stock.**

The value of the common stock may be adversely affected by a number of factors, including many of the risks described in this prospectus/disclosure statement. If, for example, our stockholders decide to sell a substantial number of their shares of common stock, the value of the common stock could decline. Similarly, if we fail to comply with the covenants in our existing credit agreement (which are also incorporated into our existing swap agreement), the

amended credit agreement, the ABL agreement or the convertible notes indenture, as applicable, resulting in an event of default thereunder, certain of our outstanding indebtedness could be accelerated, which could have a material adverse effect on the value of the common stock.

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**If our common stock is deemed a penny stock, its liquidity will be adversely affected.**

As of September 4, 2009, the closing stock price for our common stock was $2.61 per share. If the market price for our common stock falls below $1.00 per share, our common stock may be deemed to be a penny stock. If our common stock is considered a penny stock, it would be subject to rules that impose additional sales practices on broker-dealers who sell our securities. For example, broker-dealers must make a special suitability determination for the purchaser and have received the purchaser s written consent to the transaction prior to sale. Also, a disclosure schedule must be delivered to each purchaser of a penny stock, disclosing sales commissions and current quotations for the securities. Monthly statements are also required to be sent disclosing recent price information for the penny stock held in the account and information on the limited market in penny stocks. Because of these additional conditions, some brokers may choose not to effect transactions in penny stocks. This could have an adverse effect on the liquidity of our common stock.

**The common stock is junior to all of our other securities, including our existing and future indebtedness and the Series B convertible preferred stock.**

The common stock is the most junior of all of our securities. As a result, our existing and future indebtedness and other non-equity claims, as well as our preferred stock, including the Series B convertible preferred stock, will rank senior to the common stock as to rights upon any foreclosure, dissolution, winding-up, liquidation or reorganization, or other bankruptcy proceeding relating to the Company. In the event of any distribution or payment of our assets in any foreclosure, dissolution, winding-up, liquidation or reorganization, or other bankruptcy proceeding, our creditors and holders of our preferred stock will have a superior claim and interest, as applicable, to the interests of holders of our common stock. If any of the foregoing events occur, we cannot assure you that there will be sufficient assets for distribution in respect of the common stock. In addition, in the event of a change of control, holders of the Series B convertible preferred stock may be entitled to superior rights relative to the holders of common stock, including a right to require redemption by the Company of such Series B convertible preferred stock. See The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Change of Control Redemption Right.

**The issuance of shares of common stock in this exchange offer or, in the alternative, pursuant to the prepackaged plan and the issuance of shares of Series B convertible preferred stock upon consummation of the CD&R investment will dilute the ownership interest of our existing stockholders and may not be fully reflected in the current market price of our common stock and we cannot predict the price at which our common stock will trade following the restructuring.**

As of September 4, 2009, we had approximately 19,981,585 shares of common stock issued and outstanding, excluding shares held by us as treasury stock. Assuming that we complete the restructuring and all outstanding convertible notes are tendered and accepted in this exchange offer or retired pursuant to the prepackaged plan, based on the number of shares of common stock authorized, issued and outstanding as of September 4, 2009, at the closing of, and after giving effect to, the restructuring:

- holders of convertible notes would receive 70,200,000 shares of common stock, or approximately 24.5% of our voting power;
- the CD&R Fund would receive 250,000 shares of Series B convertible preferred stock, or approximately 68.5% of our voting power;
- our current stockholders would continue to hold approximately 19,981,585 shares of common stock, or approximately 7.0% of our voting power.

The average daily trading volume of our common stock on the NYSE during the three months ending August 2, 2009, was approximately 1.21 million shares. Given these low trading volumes relative to the number of shares of common stock outstanding, any sales in the public market of the shares of common stock issuable in this exchange offer or, in the alternative, pursuant to the prepackaged plan, are likely to adversely affect the prevailing market price of our common stock.

This issuance of the common stock in this exchange offer and the Series B convertible preferred stock in the CD&R investment could materially depress the price of our common stock if holders of a large number of shares of

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common stock attempt to sell all or a substantial portion of their holdings following the restructuring. Pursuant to the lock-up agreement, we agreed to enter into a registration rights agreement that will provide registration rights to the noteholders who are parties to the lock-up agreement in the event that this exchange offer is consummated. See The Restructuring The Lock-Up Agreement. In accordance with the terms of the lock-up agreement, such registration rights agreement would, among other things and subject to certain conditions, obligate us to file with the SEC a shelf registration statement covering resales of the common stock received by such noteholders on a delayed or continuous basis. Upon effectiveness of such shelf registration statement, holders of notes that executed the lock-up agreement, which hold more than 79% of the aggregate principal amount of the outstanding convertible notes, would be able to freely transfer their shares of common stock received pursuant to the exchange offer. We cannot predict what the demand for our common stock will be following the restructuring, how many shares of our common stock will be offered for sale or be sold following the restructuring, or the price at which our common stock will trade following the restructuring.

**The Series B convertible preferred stock may be dilutive to our stockholders from and after the closing of the restructuring. The Series B convertible preferred stock will accrue dividends, which may be paid in cash or in kind. If dividends on the Series B convertible preferred stock are paid in kind, they will dilute the ownership interest of our stockholders. In addition, the dividend rate of the Series B convertible preferred stock will increase upon the occurrence of certain events which constitute defaults under the terms of the Series B convertible preferred stock, which may cause further dilution. Furthermore, the Series B convertible preferred stock also provides for anti-dilution rights, which may dilute the ownership interest of stockholders in the future.**

Upon issuance, the Series B convertible preferred stock will accrue dividends at a rate *per annum* of 12.00% if paid in kind or at a rate *per annum* of 8.00% if paid in cash, unless and until such dividends are reduced to 0.00%, which will occur if the trading price per share of common stock equals or exceeds two times a specified target price (which is equal to $1.2748 at the closing of the restructuring, but is subject to adjustments thereafter) for each trading day during any period of 20 consecutive trading days occurring after the 30-month anniversary of the closing of the restructuring.

If dividends on the Series B convertible preferred stock are paid in kind, it will dilute the ownership interest of stockholders, including holders of convertible notes who become holders of common stock pursuant to this exchange offer or pursuant to the prepackaged plan.

Furthermore, upon the occurrence of a default, the applicable dividend rate is subject to increase by:

- 6.00% *per annum,* if the default is the result of a failure by us after June 30, 2011 to reserve and keep available for issuance a number of shares of common stock equal to 110% of the number of shares of common stock issuable upon conversion of all outstanding shares of Series B convertible preferred stock; or

- 3.00% *per annum* for any other default.

See The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Dividends.

After giving effect to the restructuring, we do not expect to have sufficient authorized but unissued shares of common stock to enable the conversion of all 250,000 shares of Series B convertible preferred stock to be issued to the CD&R Fund pursuant to the CD&R investment. Pursuant to the stockholders agreement (see The Restructuring Description of the CD&R Investment The Stockholders Agreement ), from and after the closing of the restructuring, we will use our best efforts and take all corporate actions necessary to obtain approval from holders of our common stock of an

amendment to Article FOURTH, section 1 of our restated certificate of incorporation to increase the number of authorized shares of common stock. However, there is no assurance that we will be able to obtain such approval. In the event that we do not obtain such approval prior to June 30, 2010, the dividend rate with respect to the Series B convertible preferred stock will increase by 3.00% *per annum*, and if we do not obtain such approval prior to June 30, 2011, the dividend rate will increase by an additional 3.00% *per annum* (resulting in an aggregate increase of 6.00% *per annum*) as described in The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Dividends Default Dividend Rate. See The Restructuring Description of the CD&R Investment The Stockholders Agreement Agreement to Seek

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Amendments to our Restated Certificate of Incorporation. In such event, stockholders ownership interest in the Company will be further diluted to the extent that dividends paid in respect of such additional default dividend rate are dividends paid in kind.

As further described in The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Convertibility and Anti Dilution Adjustments, the conversion price of the Series B convertible preferred stock is subject to adjustment, including if the Company issues common stock or other securities below the then-current market price or, during the first three years after the closing of the restructuring, below the then-current conversion price. Adjustments to the conversion price will dilute the ownership interest of stockholders.

**At the closing of the CD&R investment, we will enter into a stockholders agreement with the CD&R Fund pursuant to which the CD&R Fund will have substantial governance and other rights.**

At the closing of the CD&R investment, we will enter into a stockholders agreement with the CD&R Fund setting forth certain terms and conditions regarding the CD&R investment and the ownership of the CD&R Fund s shares of Series B convertible preferred stock. Pursuant to the stockholders agreement with the CD&R Fund, subject to certain ownership and other requirements and conditions, the CD&R Fund will have the right to appoint a majority of directors to our board of directors, including the Lead Director or Chairman of the Executive Committee of our board of directors, and will have consent rights over a variety of significant corporate and financing matters, including, subject to certain customary exceptions and specified baskets, sales and acquisitions of assets, issuances and redemptions of equity, incurrence of debt, the declaration or payment of extraordinary distributions or dividends and changes to the Company s line of business. In addition, the CD&R Fund will be granted subscription rights under the terms and conditions of the stockholders agreement. See The Restructuring Description of the CD&R Investment The Stockholders Agreement.

Further, effective as of the closing, the Company will be required to have taken all corporate action and filed all election notices or other documentation with the NYSE necessary to elect to take advantage of the exemptions to the requirements of sections 303A.01, 303A.04 and 303A.05 of the NYSE Listed Company Manual and, for so long as we qualify as a controlled company within the meaning set forth in the NYSE Listed Company Manual or any similar provision in the rules of a stock exchange on which the securities of the Company are quoted or listed for trading, we have agreed to use our reasonable best efforts to take advantage of the exemptions therein. See The Restructuring Description of the CD&R Investment The Stockholders Agreement Agreement with Respect to Controlled Company Status.

**The Series B convertible preferred stock to be issued in connection with the CD&R investment has substantial rights and will rank senior to the common stock.**

Assuming consummation of the CD&R investment, if your convertible notes are accepted for exchange for cash and shares of common stock in this exchange offer or if you receive cash and common stock under the prepackaged plan, your shares of common stock will rank junior as to dividend rights, redemption payments and rights (including as to distribution of assets) in any liquidation, dissolution, or winding-up of the affairs of the Company and otherwise to the shares of Series B convertible preferred stock to be issued to the CD&R Fund in connection with the CD&R investment. The terms of the Series B convertible preferred stock will entitle the holders thereof to vote on an as-converted basis (without taking into account any limitations on convertibility that may then be applicable) with the holders of common stock. At the closing of the restructuring, we expect that the CD&R Fund will have a majority voting position and holders of common stock will be in the minority. See The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Voting Rights. In addition, certain actions by the Company, including, upon the occurrence of certain specified defaults, the adoption of an annual budget, the hiring and firing, or the changing of the compensation, of executive officers and the commitment, resolution or agreement to

effect any business combination, among others, require the prior affirmative vote or written consent of the holders representing at least a majority of the then-outstanding shares of Series B convertible preferred stock, voting together as a separate class. See The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Voting Rights Class Voting Rights and The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Voting Rights Special Contingent Voting Rights. This level of control, together with the

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CD&R Fund s rights under the stockholders agreement, could discourage others from initiating any potential merger, takeover or other change of control transaction that may otherwise be beneficial to our business or our stockholders. See The Restructuring Description of the CD&R Investment The Stockholders Agreement.

Furthermore, the terms of the Series B convertible preferred stock also provide for anti-dilution rights, which may dilute the ownership interest of stockholders in the future, and change of control redemption rights, which may entitle the holders of Series B convertible preferred stock to receive higher value for their shares of Series B convertible preferred stock than the shares of common stock would receive in the event of a change of control (see The Restructuring Description of the CD&R Investment Certain Terms of the Series B convertible preferred Stock Convertibility and Anti-Dilution Adjustments and see The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Change of Control Redemption Right ). In addition, the terms of the Series B convertible preferred stock also provide that the CD&R Fund will participate in common stock dividends, receive preferred dividends and have preferential rights in liquidation, including make whole rights (see The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Dividends ).

**The trading price of our common stock has been and may continue to be volatile.**

The trading price of our common stock has fluctuated in the past and is subject to significant fluctuations in response to the following factors, some of which are beyond our control:

- variations in quarterly operating results;
- deviations in our earnings from publicly disclosed forward-looking guidance;
- changes in earnings estimates by analysts;
- our announcements of significant contracts, acquisitions, strategic partnerships or joint ventures;
- general conditions in the metal components and engineered building systems industries;
- uncertainty about current global economic conditions;
- fluctuations in stock market price and volume; and
- other general economic conditions.

During fiscal 2008, the sale prices of our common stock on the NYSE ranged from a high of approximately $40.95 per share to a low of approximately $14.25 per share. Since the beginning of fiscal 2009, the sale prices of our common stock on the NYSE ranged from a high of approximately $19.35 per share to a low of approximately $1.76 per share. In recent years, the stock market in general has experienced extreme price and volume fluctuations that have affected the market price for many companies in industries similar to ours. Some of these fluctuations have been unrelated to the operating performance of the affected companies. These market fluctuations may decrease the market price of the common stock in the future.

**If we cannot meet the NYSE s continued listing requirements, the NYSE may delist our common stock, and such a delisting could have an adverse impact on the liquidity and market price of the common stock.**

Our common stock is currently listed on the NYSE. In the future, we may not be able to meet the NYSE s continued listing requirements, which include, among other things: (1) that the average closing price of our common stock be above $1.00 over 30 consecutive trading days; (2) that our average global market capitalization over a consecutive 30 trading-day period is at or above $50.0 million or, if our average global market capitalization over a consecutive 30 trading-day period is less than $50.0 million, that our total stockholders equity is at or above $50.0 million; and (3) that the average market capitalization be at least $15.0 million over 30 consecutive trading days. The closing price of our common stock on September 4, 2009 was $2.61 per share, and our market capitalization was approximately $52.2 million as of such date.

A delisting of our common stock could negatively affect holders of common stock and negatively affect us by, among other things, reducing the liquidity and market price of our common stock; reducing the number of investors willing to hold or acquire our common stock, which could negatively affect our ability to raise equity financing;

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decreasing the amount of news and analyst coverage for our company; and limiting our ability to issue additional securities or obtain additional financing in the future.

**We are not currently paying dividends on our common stock and have no current plans to do so in the future.**

Historically, we have not paid dividends on our common stock and have no current plans to do so in the future. Furthermore, the terms of our existing credit agreement restrict our ability to do so, and we expect that, if the term loan refinancing or the ABL financing is consummated, the amended credit agreement or the ABL agreement, respectively, will have similar restrictions. In addition, under the terms of the Series B convertible preferred stock, the holders of such shares would participate in any declared common stock dividends and also receive preferred dividends, reducing the cash available to holders of common stock. See The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock. Our other future indebtedness, if any, may also restrict payment of dividends on our common stock. Also, assuming the consummation of the CD&R investment, we may not declare or pay any extraordinary dividend or distribution without the prior consent of the CD&R Fund pursuant to the stockholders agreement. See The Restructuring Description of the CD&R Investment The Stockholders Agreement Consent Rights.

In addition, the terms of the Series B convertible preferred stock will limit the circumstances under which the Company will be able to pay dividends or make distributions on junior securities, including common stock. Specifically, at all times during which shares of Series B convertible preferred stock are issued and outstanding, we may not (1) declare, pay or set aside for payment any dividends or distributions upon any junior securities, except for certain limited exceptions or (2) repurchase, redeem or otherwise acquire any junior securities for any consideration or pay any moneys or make available for a sinking fund for the redemption of any shares of such junior securities, except for certain limited exceptions, unless, in each case, the Company has access to sufficient lawful funds to redeem in full all shares of the Series B convertible preferred stock then issued and outstanding. In addition, subject to certain limited exceptions, at any time during which a default under the terms of the Series B convertible preferred stock is occurring, we may not declare or pay or set apart for payment any dividend or other distribution with respect to any junior securities, or redeem, purchase or otherwise acquire for any consideration any junior securities. See The Restructuring Description of the CD&R Investment Certain Terms of the Series B Convertible Preferred Stock Dividends Restrictions with Respect to Junior Securities Dividends.

**We may issue securities senior to the common stock without your approval.**

We may authorize, create or increase the authorized amount of any class or series of stock that ranks senior to the common stock with respect to the payment of dividends or amounts payable upon liquidation, dissolution or winding-up without the consent of the holders of the outstanding common stock, subject to applicable laws and our obligations under the stockholders agreement.

**Change-of-control, consent or notice provisions in agreements may be triggered upon the completion of this exchange offer or, in the alternative, the effectiveness of the prepackaged plan.**

We may be a party to agreements that contain change-of-control, consent or notice provisions that may be triggered following the issuance of the shares of common stock in this exchange offer, or in the alternative, pursuant to the prepackaged plan and/or the consummation of the CD&R investment. These change-of-control, consent or notice provisions, if triggered and not waived by any beneficiaries of those provisions, could result in termination of an agreement or in unanticipated expenses following the restructuring and could adversely affect our results of operations and financial condition.

**If we file for bankruptcy protection after the consummation of this exchange offer, there is a risk that any cash consideration received in this exchange offer may be determined to be a preferential transfer and the court may require that such consideration be returned to the Company.**

If a holder of convertible notes chooses to exchange its convertible notes in this exchange offer and receives cash consideration and if a bankruptcy involving the Company is commenced within 90 days after the consummation of this exchange offer (or one year after the consummation of this exchange offer if the holder of convertible notes is an insider of the Company), the bankruptcy court may determine that the holder of convertible notes

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received preferential treatment to the detriment of other unsecured creditors. In that event, any value received by such holder may be required to be returned. The holder of convertible notes would then have a claim against the bankruptcy estate equal to the value of the avoided transfer.

**We may incur tax liability or lose tax attributes, and our ability to use certain of our tax attributes may be limited, as a result of the consummation of the recapitalization plan or the prepackaged plan.**

We may incur cancellation-of-indebtedness income, which we refer to as COD income, for U.S. federal income tax purposes as a result of the consummation of the recapitalization plan or the prepackaged plan.

To the extent that we were considered insolvent from a tax perspective immediately prior to the consummation of the recapitalization plan, any such COD income generally would be excluded from our taxable income. Alternatively, if the discharge of our liability were to occur in a chapter 11 bankruptcy case pursuant to the prepackaged plan, any COD income from such discharge generally would be excluded from our taxable income.

If and to the extent any COD income is excluded from taxable income pursuant to the insolvency exception or the bankruptcy exception described above, we generally will be required to reduce certain of our tax attributes, including, but not limited to, our net operating losses, loss carryforwards, credit carryforwards and tax basis in certain assets. This may result in a significant reduction in, and possible elimination of, certain of our tax attributes.

If any COD income is not excluded from our taxable income and we do not have sufficient losses to offset fully such COD income, we may incur tax liability from such COD income. We may make an election under recently enacted section 108(i) of the Internal Revenue Code of 1986, as amended, which we refer to as the Internal Revenue Code, to defer the inclusion of all or a portion of any COD income resulting from the consummation of the recapitalization plan or the prepackaged plan, with the amount of deferred COD income becoming includible in taxable income ratably over a five-taxable-year period beginning in, if such consummation occurs in 2009, the fifth taxable year after such consummation.

Notwithstanding our ability to utilize our available losses to offset any such COD income for regular U.S. federal income tax purposes, we may nonetheless be subject to tax under the alternative minimum tax provisions of the Internal Revenue Code. Furthermore, if we make the election under section 108(i) of the Internal Revenue Code to defer our COD income, we may incur current state income tax liability with respect to such deferred COD income in states that do not recognize the election.

Because we are expected to undergo an ownership change under section 382 of the Internal Revenue Code as a result of the restructuring, our ability to use our loss carryforwards, if any, and certain other tax attributes may be subject to limitation under section 382 of the Internal Revenue Code.

**Risks Relating to the Prepackaged Plan**

**The prepackaged plan may have a material adverse effect on our operations.**

The prepackaged plan solicitation or any subsequent commencement of a prepackaged chapter 11 case could adversely affect the relationships between us and our customers, employees, partners and others. There is a risk, due to uncertainty about our future, that:

- customers could seek alternative suppliers;

such a bankruptcy filing could erode our customers confidence in our ability to provide our products and services and, as a result, there could be a significant and precipitous decline in our revenues, profitability and cash flow;

it may be more difficult to attract or replace key employees;

employees could be distracted from performance of their duties or more easily attracted to other career opportunities; and

our suppliers, vendors, and service providers could terminate their relationship with us or require financial assurances or enhanced performance.

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These factors could adversely affect our ability to obtain confirmation of the prepackaged plan.

**Our business may be negatively affected if we are unable to assume our executory contracts.**

The prepackaged plan provides for the assumption of all executory contracts and unexpired leases other than those leases and contracts that we specifically reject. Our intention is to preserve as much of the benefit of our existing contracts and leases as possible. However, some limited classes of executory contracts may not be assumed in this way. In these cases, we would need to obtain the consent of the counterparty to maintain the benefit of the contract. There is no guaranty that such consent would either be forthcoming or that conditions would not be attached to any such consent that make assuming the contracts unattractive. We would then be required to either forego the benefits offered by such contracts or to find alternative arrangements to replace them. We intend to attempt to pass through to the reorganized company all licenses in respect of patents, trademarks, copyright or other intellectual property that cannot otherwise be assumed pursuant to the Bankruptcy Code. The counterparty to any contract that we seek to pass through may object to our attempt to pass through the contract and require us to seek to assume or reject the contract or seek approval of the bankruptcy court to terminate the contract. In such an event, we could lose the benefit of the contract, which could harm our business.

**We may not be successful in obtaining first day orders to permit us to pay our key suppliers in the ordinary course of business.**

We have tried to address potential concerns of our key customers, vendors, employees, licensors/licensees and other key parties in interest that might arise from the filing of the prepackaged plan through a variety of provisions incorporated into or contemplated by the prepackaged plan, including our intention to seek appropriate court orders to permit us to pay our accounts payable to key parties in interest in the ordinary course, assume contracts with such parties in interest and in the case of those key vendors who have agreed to continue to extend business terms to us during and after our bankruptcy proceeding, to provide for the payments of prepetition accounts payable. However, there can be no guaranty that we will be successful in obtaining the necessary approvals of the bankruptcy court for such arrangements or for every party in interest we may seek to treat in this manner, and as a result, our business might suffer.

**The bankruptcy court may not confirm the prepackaged plan.**

In the event that the conditions to the recapitalization plan are not satisfied or, with the consent of the CD&R Fund, waived, including, for example, the minimum tender condition, but we receive acceptances from a sufficient number of holders of impaired claims in an impaired class of claims to allow the prepackaged plan to be confirmed under the Bankruptcy Code, including confirmation through the nonconsensual cram-down provisions of section 1129(b) of the Bankruptcy Code with respect to non-accepting impaired claims classes, as an alternative to the recapitalization plan, we may elect and, under the terms of the investment agreement, we may be required, to seek confirmation of the prepackaged plan in a chapter 11 bankruptcy proceeding. See The Restructuring Description of the CD&R Investment The Investment Agreement Commencement of a Reorganization Case in Connection with the Prepackaged Plan Covenant.

We cannot assure you that the prepackaged plan, if filed, will be confirmed by the bankruptcy court. Section 1129 of the Bankruptcy Code, which sets forth the requirements for confirmation of a plan of reorganization, requires, among other things, a finding by the bankruptcy court that the plan is feasible, that all claims and interests have been classified in compliance with the provisions of section 1122 of the Bankruptcy Code, and that, under the plan, each holder of a claim or interest within each impaired class either accepts the plan or receives or retains cash or property of a value, as of the date the plan becomes effective, that is not less than the value such holder would receive or retain

if the debtor were liquidated under chapter 7 of the Bankruptcy Code. See The Prepackaged Plan Confirmation of the Prepackaged Plan.

There can be no assurance that a bankruptcy court will conclude that the feasibility test and other requirements of section 1129 of the Bankruptcy Code have been met with respect to the prepackaged plan.

If the prepackaged plan is filed, there can be no assurance that modifications to such plan would not be required for confirmation, or that such modifications would not require a resolicitation of votes on the prepackaged plan. We

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believe that, if the prepackaged plan is confirmed, it would not be followed by a liquidation or an immediate need for further financial reorganization and that holders of claims and interests would receive or retain value that is not less than the value such holders would receive or retain if we were liquidated under chapter 7 of the Bankruptcy Code.

Moreover, the bankruptcy court could determine that our disclosures made in this document are inadequate and that the votes in favor of the prepackaged plan do not count. We would then have to commence the solicitation process again, which would include re-filing a plan of reorganization and disclosure statement. Typically, this process involves a 90-day or longer period and includes a court hearing for the required approval of a disclosure statement, followed (after bankruptcy court approval) by another solicitation of claim and interest holder votes for the plan of reorganization, followed by a confirmation hearing for the bankruptcy court to determine whether the requirements for confirmation have been satisfied, including the requisite claim and (if applicable) interest holder acceptances.

If the prepackaged plan is not confirmed, our reorganization case may be converted to a case under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be appointed or elected to liquidate our assets for distribution in accordance with the priorities established by the Bankruptcy Code. A discussion of the effects that a chapter 7 liquidation would have on the recoveries of holders of claims and interests and our liquidation analysis are set forth under The Prepackaged Plan Liquidation Analysis. We believe that liquidation under chapter 7 of the Bankruptcy Code would result in (1) smaller distributions being made to creditors than those provided for in the prepackaged plan because of (a) the likelihood that our assets would have to be sold or otherwise disposed of in a less orderly fashion over a short period of time, (b) additional administrative expenses involved in the appointment of a trustee, and (c) additional expenses and claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of leases and other executory contracts in connection with a cessation of our operations, and (2) no distributions being made to holders of our common stock.

If (1) our reorganization case is dismissed or converted into a case under chapter 7 of the Bankruptcy Code, or we filed a motion or other pleading with the bankruptcy court seeking the dismissal or conversion of the prepackaged plan proceeding or (2) if the bankruptcy court (a) grants relief that is materially inconsistent with the investment agreement or the prepackaged plan in any respect or (b) enters an order confirming any plan of reorganization other than the prepackaged plan, the CD&R Fund would have the right to terminate the investment agreement. See The Restructuring Description of the CD&R Investment Termination of the Investment Agreement.

**If we commence a chapter 11 bankruptcy proceeding, other parties in interest might be permitted to propose alternative plans of reorganization that may be less favorable to certain of our constituencies than the prepackaged plan.**

If our reorganization case is commenced, other parties in interest could seek authority from the bankruptcy court to propose an alternative plan of reorganization. Under the Bankruptcy Code, a debtor-in-possession initially has the exclusive right to propose and solicit acceptances of a plan of reorganization. However, such exclusivity period can be reduced or terminated upon order of the bankruptcy court. If such an order were to be entered, other parties in interest would then have the opportunity to propose alternative plans of reorganization.

If other parties in interest were to propose an alternative plan following expiration or termination of our exclusivity period, such a plan may be less favorable to existing equity interest holders and may seek to exclude these holders from retaining any shares of common stock under their plan. Alternative plans of reorganization also may treat less favorably the claims of a number of other constituencies, including our employees, our trading partners and customers. We consider maintaining relationships with our employees, customers and trading partners as critical to maintaining the value of our business as we restructure, and have sought to treat those constituencies accordingly. However, proponents of alternative plans of reorganization may not share our assessment and seek to impair the claims of such constituencies to a greater degree. If there were competing plans of reorganization, our reorganization

case is likely to become longer and more complicated. If this were to occur, or if our employees or other constituencies important to our business reacted adversely to an alternative plan of reorganization, the adverse

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consequences discussed in the first risk factor in this section discussing risks related to the prepackaged plan could also occur.

If a bankruptcy proceeding is commenced by a third party against us or our subsidiaries (other than a bankruptcy contemplated by the prepackaged plan), the CD&R Fund may terminate the investment agreement if such proceeding has not been dismissed within 30 days of its commencement. See The Restructuring Description of the CD&R Investment Termination of the Investment Agreement.

**The bankruptcy court may disagree with our classification of claims and interests.**

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class. We believe that the classification of claims and interests under the prepackaged plan complies with the requirements set forth in the Bankruptcy Code; however, once a chapter 11 case has been commenced, a claim or interest holder could challenge the classification. In such event, the cost of the prepackaged plan and the time needed to confirm the prepackaged plan may increase and we cannot assure you that the bankruptcy court will agree with our classification of claims and interests. If the bankruptcy court concludes that the classification of claims and interests under the prepackaged plan does not comply with the requirements of the Bankruptcy Code, we may need to modify the prepackaged plan. Such modification could require a resolicitation of votes on the prepackaged plan. If the bankruptcy court determined that our classification of claims and interests was not appropriate, the prepackaged plan may not be confirmed.

**The bankruptcy court may find the solicitation of acceptances inadequate.**

Usually, a plan of reorganization is filed and votes to accept or reject the plan are solicited after the filing of a petition commencing a chapter 11 case. Nevertheless, a debtor may solicit votes prior to the commencement of a chapter 11 case in accordance with section 1126(b) of the Bankruptcy Code and bankruptcy rule 3018(b). Section 1126(b) of the Bankruptcy Code and bankruptcy rule 3018(b) require that:

- the plan of reorganization be transmitted to substantially all creditors and other interest holders entitled to vote;
- the time prescribed for voting is not unreasonably short; and
- the solicitation of votes is in compliance with any applicable nonbankruptcy law, rule or regulation governing the adequacy of disclosure in such solicitation or, if no such law, rule or regulation exists, votes be solicited only after the disclosure of adequate information.

Section 1125(a)(1) of the Bankruptcy Code describes adequate information as information of a kind and in sufficient detail as would enable a hypothetical reasonable investor typical of holders of claims and interests to make an informed judgment about the plan. With regard to solicitation of votes prior to the commencement of a bankruptcy case, if the bankruptcy court concludes that the requirements of Bankruptcy Rule 3018(b) have not been met, then the bankruptcy court could deem such votes invalid, whereupon the prepackaged plan could not be confirmed without a resolicitation of votes to accept or reject the prepackaged plan. While we believe that the requirements of section 1126(b) of the Bankruptcy Code and Bankruptcy Rule 3018 will be met, there can be no assurance that the bankruptcy court will reach the same conclusion.

**Even if all classes of claims that are entitled to vote accept the prepackaged plan, we may fail to meet all conditions precedent to effectiveness of the prepackaged plan or the prepackaged plan may not become effective.**

Although we believe that the effective date of the prepackaged plan will occur very shortly after confirmation of the prepackaged plan, there can be no assurance as to such timing.

The confirmation and effectiveness of the prepackaged plan are subject to certain conditions that may not be satisfied. We cannot assure you that all requirements for confirmation and effectiveness required under the prepackaged plan will be satisfied or that the bankruptcy court will conclude that the requirements for confirmation

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and effectiveness of the prepackaged plan have been satisfied. See The Prepackaged Plan Confirmation of the Prepackaged Plan and The Prepackaged Plan Conditions to Effective Date of the Prepackaged Plan.

If the conditions precedent to the effective date, including entry of the confirmation order, the receipt of proceeds from the CD&R investment, the consummation of the term loan refinancing, the consummation of the ABL financing and such other condition as to which the Company and the CD&R Fund may reasonably agree, have not occurred, the prepackaged plan may be vacated by the bankruptcy court.

Furthermore, in the event that the CD&R Fund does not fund the CD&R investment, and without a suitable alternative new investment, we do not believe the prepackaged plan would meet the confirmation requirement of section 1129 of the Bankruptcy Code that the plan be feasible. See The Prepackaged Plan Confirmation of the Prepackaged Plan. In that event, we will not seek confirmation of the prepackaged plan and your vote in favor of the prepackaged plan will be disregarded.

The lock-up agreement may be terminated by a number of holders that executed the lock-up agreement holding not less than two-thirds in aggregate principal amount of all convertible notes held by all holders that executed the lock-up agreement if an event occurs that would provide either the Company or the CD&R Fund with the right to terminate the investment agreement under the terms of the investment agreement, which includes certain triggers relating to the timing of events in the prepackaged plan proceeding (see The Restructuring Description of the CD&R Investment The Investment Agreement Termination of the Investment Agreement ).

**We cannot predict the amount of time that we would spend in bankruptcy for the purpose of implementing the prepackaged plan, and a lengthy bankruptcy proceeding would disrupt our business, as well as impair the prospect for reorganization on the terms contained in the prepackaged plan.**

While we expect that a chapter 11 bankruptcy filing solely for the purpose of implementing the prepackaged plan would be of short duration (*e.g.,* 60 days) and would not be unduly disruptive to our business, we cannot be certain that this would be the case. Although the prepackaged plan is designed to minimize the length of the bankruptcy proceeding, it is impossible to predict with certainty the amount of time that we may spend in bankruptcy, and we cannot be certain that the prepackaged plan would be confirmed. Even if confirmed on a timely basis, a bankruptcy proceeding to confirm the prepackaged plan could itself have an adverse effect on our business. There is a risk, due to uncertainty about our future, that:

- customers could seek alternative sources of products from our competitors, including competitors that have comparatively greater financial resources and that are in little or no relative financial distress;
- employees could be distracted from performance of their duties or more easily attracted to other career opportunities; and
- business partners could terminate their relationship with us or require financial assurances or enhanced performance.

A lengthy bankruptcy proceeding would also involve additional expenses and divert the attention of management from operation of our business, as well as creating concerns for employees, suppliers and customers.

The disruption that a bankruptcy proceeding would inflict upon our business could increase with the length of time it takes to complete the proceeding, and the severity of that disruption would depend upon the attractiveness and feasibility of the prepackaged plan of reorganization from the perspective of the constituent parties on whom we depend, including vendors, employees and customers. If we are unable to obtain confirmation of the prepackaged plan

on a timely basis, because of a challenge to the prepackaged plan or a failure to satisfy the conditions to the effectiveness of the prepackaged plan, we may be forced to operate in bankruptcy for an extended period while we try to develop a different reorganization plan that can be confirmed. A protracted bankruptcy case could increase both the probability and the magnitude of the adverse effects described above.

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**We may be unable to obtain adequate financing or authority to use cash collateral during the pendency of the bankruptcy proceeding.**

On or shortly after commencing the prepackaged chapter 11 bankruptcy case, we intend to ask the bankruptcy court to authorize us to obtain debtor-in-possession financing and/or to use cash collateral to fund the prepackaged chapter 11 bankruptcy case. Such financing arrangements and access to cash collateral will provide liquidity during the pendency of the prepackaged chapter 11 bankruptcy case. There can be no assurance that the bankruptcy court will approve such financing arrangements or the use of cash collateral on the terms requested. Moreover, if the prepackaged chapter 11 bankruptcy case takes longer than expected to conclude, we may exhaust our financing and available cash collateral. There is no assurance that we will be able to obtain additional financing or an extension of the right to use cash collateral. In such case, the liquidity necessary for the orderly functioning of our businesses may be materially impaired.

**We may seek to amend, waive, modify or withdraw the prepackaged plan any time prior to the confirmation of the prepackaged plan.**

We reserve the right, prior to the confirmation or substantial consummation thereof, subject to the provisions of section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, to amend the terms of the prepackaged plan or waive any conditions thereto, if and to the extent such amendments or waivers are necessary or desirable to consummate the prepackaged plan. The potential impact of any such amendment or waiver on the holders of claims and interests cannot presently be foreseen, but may include a change in the economic impact of the prepackaged plan on some or all of the classes or a change in the relative rights of such classes. All holders of claims and interests will receive notice of such amendments or waivers required by applicable law and the bankruptcy court. If, after receiving sufficient acceptances, but prior to confirmation of the prepackaged plan, we seek to modify the prepackaged plan, the previously solicited acceptances will be valid only if (i) all classes of adversely affected creditors and interest holders accept the modification in writing or (ii) the bankruptcy court determines, after notice to designated parties, that such modification was *de minimis* or purely technical or otherwise did not adversely change the treatment of holders accepting claims and interests.

**If we are unable to obtain confirmation of the prepackaged plan on a timely basis, then, in accordance with the terms of the investment agreement, the investment agreement may be terminated and we will not receive the proceeds of the CD&R investment.**

If the reorganization case in connection with the prepackaged plan has been commenced and the effective date of the prepackaged plan has not occurred by a date that is no later than four weeks and ten days after the entry of the order confirming the prepackaged plan (provided, that the party seeking to so terminate has not breached in any material respect its obligations under the investment agreement in any manner that has been a proximate cause of the failure to consummate the CD&R investment on or before such date), either we or the CD&R Fund may terminate the investment agreement. The CD&R Fund also has the right to terminate the investment agreement if:

- at any time after eight weeks after the filing of the prepackaged plan, the bankruptcy court has not entered the confirmation order with respect to the prepackaged plan on or prior to such date; or

- the bankruptcy court enters an order denying confirmation of the prepackaged plan or the confirmation order is vacated or reversed and does not become a final order within four weeks and ten days after the entry of the confirmation order. See The Restructuring Description of the CD&R Investment The Investment Agreement Termination of the Investment Agreement.

**The distribution of proceeds in the prepackaged plan will be delayed until after the effective date.**

If we file a chapter 11 case and the prepackaged plan is confirmed, the date of the distributions to be made pursuant to the prepackaged plan will be delayed until after the effective date of the prepackaged plan. We estimate that the process of obtaining court approval of the prepackaged plan will last approximately 30 days from the date of the commencement of our chapter 11 case but it could last considerably longer. The distribution would be delayed for a minimum of 11 days thereafter and may be delayed for a substantially longer period.

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**In the event that the restructuring is accomplished through the confirmation and effectiveness of the prepackaged plan, the Company would need to adopt fresh start accounting, which may have a material effect on the Company s financial statements, and certain of the fair values established under fresh start reporting may differ materially from the values recorded on the Company s historical financial statements and reflected or projected in this prospectus/disclosure statement.**

In the event the restructuring is accomplished through the confirmation and effectiveness of the prepackaged plan pursuant to the Bankruptcy Code, the Company would need to adopt fresh start reporting as of its emergence from chapter 11 of the Bankruptcy Code, in accordance with applicable accounting rules. These rules require the Company to revalue its assets and liabilities to current estimated fair value, re-establish shareholders equity at the reorganization value determined in connection with the plan of reorganization, and record any portion of the reorganization value which cannot be attributed to specific tangible or identified intangible assets as goodwill. The adoption of fresh start accounting may have a material effect on the Company s financial statements, and certain of the fair values established under fresh start reporting may differ materially from the values recorded on the Company s historical financial statements and reflected or projected in this prospectus/disclosure statement. As a result, the Company s financial statements published for periods following its emergence from chapter 11 of the Bankruptcy Code will not be comparable with those prepared before that date or contained herein.

**Other Risks Relating to the Company**

**Our industry is currently experiencing a downturn which, if sustained, could materially and adversely affect our business, liquidity and results of operations.**

The United States economy is currently undergoing a period of slowdown and unprecedented volatility, which is having an adverse effect on our business. During fiscal 2008, McGraw-Hill s estimate of low-rise new construction starts for buildings less than five stories declined by 15.1% in square feet compared to 2007. This industry decline contributed to a 34% decline in our total tons shipped. During the first nine months of fiscal 2009, our external tons shipped declined 41% as compared to the same period of 2008, and McGraw-Hill is currently predicting a 35% decline in square footage for nonresidential construction activity in calendar 2009.

Continued uncertainty about current economic conditions has had a negative effect on our business and will continue to pose a risk to our business as our customers may postpone spending in response to tighter credit, negative financial news and/or declines in income or asset values, which could have a material negative effect on the demand for our products. Other factors that could influence demand include fuel and other energy costs, conditions in the nonresidential real estate markets, labor and healthcare costs, access to credit and other macroeconomic factors. From time to time, our industry has also been adversely affected in various parts of the country by declines in nonresidential construction starts, including, but not limited to, high vacancy rates, changes in tax laws affecting the real estate industry, high interest rates and the unavailability of financing. Sales of our products may be adversely affected by weakness in demand for our products within particular customer groups, or a recession in the general construction industry or particular geographic regions. These and other economic factors could have a material adverse effect on demand for our products and on our financial condition and operating results.

We cannot predict the ultimate severity or length of the current economic crisis, or the timing or severity of future economic or industry downturns. Any economic downturn, particularly in states where many of our sales are made, could have a material adverse effect on our results of operations and financial condition, including potential asset impairments.

**Current challenges in the credit markets may adversely affect our business and financial condition.**

The financial turmoil that affected the banking system and financial markets beginning in the second half of 2007 has resulted in a tightening in the credit markets, a low level of liquidity in many financial markets, and extreme volatility in fixed income, credit, currency and equity markets. The current challenges in the credit markets have had, and may continue to have, a negative impact on our business and our financial condition. We may face significant challenges if conditions in the financial markets do not improve, including raw material shortages resulting from the insolvency of key suppliers and the inability of customers to obtain credit to finance purchases of our products. In addition, declining customer spending may result in higher levels of order cancellations than we

have historically experienced, and may drive us to sell our products at lower prices, which would have an adverse effect on our margins and profitability.

**If we do not consummate the restructuring by November 6, 2009, we expect to violate the financial covenants in our existing credit agreement, which would be an event of default under our existing credit agreement and could cause all of our existing indebtedness to be declared immediately due and payable.**

Our existing credit agreement requires compliance with various covenants and provisions customary for agreements of this nature, including a restricted payments test, and a minimum ratio of Consolidated EBITDA (as defined in our existing credit agreement) to interest expense of 5.0 to 1 and maximum ratios of total debt and senior debt to Consolidated EBITDA of 4.0 to 1 and 2.75 to 1, respectively. Such covenants and provisions are also incorporated by reference into our swap agreement. As of August 2, 2009, we continued not to be in compliance with the required leverage, senior leverage and interest coverage ratios in our existing credit agreement, although we were in compliance with the remaining covenants.

We have obtained a waiver from the lenders under our existing credit agreement, including waivers of our financial maintenance covenants, which is effective through November 6, 2009.

If we are unable to consummate the restructuring either through the recapitalization plan or, in the alternative, the prepackaged plan, or otherwise to refinance our outstanding debt by November 6, 2009, we expect that we will fail to be in compliance with the financial covenants under our existing credit agreement as of such date. Absent an extension of the waiver, such violations will constitute an event of default under our existing credit agreement, and the lenders under our existing credit agreement could elect to declare all $293.3 million of our outstanding borrowings thereunder immediately due and payable. In the event that we do not repay such borrowings upon acceleration, the lenders under our existing credit agreement could exercise their remedies as secured creditors with respect to the collateral securing such borrowings. A failure to pay or refinance such borrowings will also result in a default under the convertible notes indenture, which could also then be declared immediately due and payable, and under our swap agreement, which could then be terminated by the counterparty thereto. If all such indebtedness, which totaled approximately $473.7 million as of August 2, 2009 and such amounts payable pursuant to the termination of the swap agreement, were to become due and payable on November 6, 2009, it would result in a material adverse effect on our financial condition, operations and debt service capabilities. As of August 2, 2009, excluding restricted cash, we had a current cash balance of approximately $105.4 million to address our liquidity needs. For a description of our non-compliance with the financial ratio covenants under our existing credit agreement, see our quarterly report on Form 10-Q for the quarter ended August 2, 2009, our current reports on Form 8-K filed on May 21, 2009, July 15, 2009 and August 27, 2009, and  Incorporation of Certain Documents by Reference.

In such event, we will immediately need to pursue other alternatives to manage our liquidity needs, including potentially commencing a bankruptcy on terms other than as contemplated by the prepackaged plan.

**If we do not consummate the restructuring by November 6, 2009, adverse capital and credit market conditions may significantly and adversely affect our ability to otherwise refinance our existing debt.**

If we do not consummate the restructuring either through the recapitalization plan or, in the alternative, through the prepackaged plan, adverse capital and credit market conditions may significantly and adversely affect our ability to otherwise refinance our existing debt. Beginning in the third quarter of 2008 and continuing into 2009, the credit markets have been very volatile and have presented very unattractive terms and conditions for the few companies entering into credit transactions during that period. The credit markets have favored investment grade securities and securities issued to companies within non-cyclical industries during that period. In the event that we need to complete an alternative refinancing, lenders, if willing to provide credit, may seek more restrictive lending provisions and

higher interest rates that may reduce our borrowing capacity and increase our costs. Also, given the increased stress in the financial sector, current or future lenders may become unwilling or unable to continue to advance funds under any agreements in place. We can make no assurances that we will be able to refinance our indebtedness, or that any such refinancing will be under terms that are as favorable to us as past credit agreements or the agreements as contemplated by the restructuring. If we are unable to refinance our indebtedness in a timely

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fashion, our cash from operations may be insufficient to meet our debt obligations. In addition, the failure to obtain sufficient financing may constrain our ability to operate or grow our business and affect our strategy.

**If we do not consummate the restructuring by November 6, 2009, we will need to pursue all other alternatives to refinance our existing debt. Any refinancing of our existing debt using equity will likely be highly dilutive to our existing stockholders and could adversely affect the price of our common stock.**

If we do not consummate the restructuring either through the recapitalization plan or, in the alternative, through the prepackaged plan, by November 6, 2009, we will need to pursue all other alternatives to refinance our existing debt, including an equity refinancing. At our current market valuation, any equity refinancing of our debt would be highly dilutive to our existing stockholders, which may be more or less dilutive than the restructuring. In addition, the issuance and sale of substantial amounts of common stock, or the announcement that such issuances and sales may occur, could adversely affect the market price of our common stock.

**Our future operational and financial performance may vary materially from the financial projections contained in this prospectus/disclosure statement.**

In order to comply with the feasibility test of section 1129 of the Bankruptcy Code, we have provided financial projections in this prospectus/disclosure statement. See The Prepackaged Plan Confirmation of the Prepackaged Plan, The Prepackaged Plan Feasibility of the Prepackaged Plan and Unaudited Projected Consolidated Financial Information for Restructuring under the Prepackaged Plan. These projections are based upon a number of assumptions and estimates, including that the financial restructuring will be implemented in accordance with its current terms.

Financial projections are necessarily speculative in nature and one or more of the assumptions and estimates underlying these projections may prove not to be valid. We believe the assumptions and estimates underlying these projections to be reasonable, but they are by their very nature inherently uncertain and subject to significant business, economic and competitive risks and uncertainties, many of which are beyond our control to predict or mitigate. See Risk Factors Other Risks Relating to the Company. Accordingly, our financial condition and results of operations following the implementation of the recapitalization plan or the prepackaged plan are likely to vary significantly from those set forth in the financial projections. Consequently, the financial projections should not be regarded as a representation by us, our advisors or any other person that the results suggested by the projections will be achieved. Holders of convertible notes are cautioned to read the financial projections in conjunction with the Selected Consolidated Financial and Other Data elsewhere in this prospectus/disclosure statement, the financial statement and schedules and related convertible notes for the fiscal year ended 2008 that are attached as Exhibit 99.1 to our current report on Form 8-K filed with the SEC on September 10, 2009 and the consolidated financial statements and related convertible notes for the quarters ended February 1, 2009, May 3, 2009 and August 2, 2009 contained in our Quarterly Reports on Form 10-Q, which are incorporated by reference into this prospectus/disclosure statement, and not to place undue reliance on the financial projections in determining whether to tender your convertible notes or vote to accept or reject the prepackaged plan.

**We may not be able to service our debt or obtain future financing and we may be limited operationally.**

We may incur additional debt from time to time to finance acquisitions, capital expenditures or for other purposes if we comply with the restrictions in our existing credit agreement, and if the restructuring is consummated, the amended credit agreement and the ABL agreement.

The debt that we carry may have important consequences to us, including the following:

our ability to obtain additional financing, if necessary, for working capital, capital expenditures, acquisitions or other purposes may be impaired or additional financing may not be available on favorable terms;

we must use a portion of our cash flow to pay the principal and interest on our debt. These payments reduce the funds that would otherwise be available for our operations and future business opportunities;

a substantial decrease in our net operating cash flows could make it difficult for us to meet our debt service requirements and force us to modify our operations; and

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we may be more vulnerable to a downturn in our business or the economy generally.

If we cannot service our debt, we will be forced to take actions such as reducing or delaying acquisitions and/or capital expenditures, selling assets, restructuring or refinancing our debt, or seeking additional equity capital. We can give no assurance that we can do any of these things on satisfactory terms or at all.

**Restrictive covenants in our existing and future credit agreements may adversely affect us.**

We must comply with operating and financing restrictions in our existing credit agreement and swap agreement. These restrictions affect, and in many respects limit or prohibit, our ability to:

incur additional indebtedness;

make restricted payments, including dividends or other distributions;

incur liens;

make investments, including joint venture investments;

sell assets;

repurchase our debt, including our convertible notes, and our capital stock; and

merge or consolidate with or into other companies or sell substantially all our assets.

If the term loan refinancing is consummated on the terms contemplated in the form of the amended credit agreement attached hereto as Annex J, we will need to comply with the operating and financing restrictions in such amended credit agreement in lieu of the restrictions under our existing credit agreement. We expect that these restrictions will affect and, in many respects, limit or prohibit our ability to:

incur additional indebtedness;

incur guarantee obligations;

make dividends and other restricted payments;

create liens;

make investments;

dispose of assets;

prepay other indebtedness;

make acquisitions;

engage in mergers;

change the nature of our business; and

engage in certain transactions with affiliates.

We may also have similar restrictions with any future debt.

We are required to make mandatory payments under our existing credit agreement upon the occurrence of certain events, including the sale of assets and the issuance of debt or equity securities, in each case subject to certain limitations and conditions set forth in our existing credit agreement. Our existing credit agreement also requires us to achieve specified financial and operating results and satisfy set financial tests relating to our leverage, interest coverage and senior debt ratios. These restrictions could limit our ability to plan for or react to market conditions or to meet extraordinary capital needs or otherwise could restrict our activities. In addition, under certain circumstances and subject to the limitations set forth in our existing credit agreement, we are required to pay down our existing term loan to the extent we generate positive cash flow each fiscal year. These restrictions could also adversely affect our ability to finance our future operations or capital needs or to engage in other business activities that would be in our interest.

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If the term loan refinancing is consummated on the terms contemplated in the form of the amended credit agreement attached hereto as Annex J, such amended credit agreement will have provisions requiring us, subject to certain limitations and conditions set forth therein, to prepay the term loans thereunder upon the occurrence of certain events, including specified sales of assets, certain debt offerings and certain insurance recovery and condemnation events. In addition, if the term loan refinancing is consummated on the terms contemplated in the form of the amended credit agreement attached hereto as Annex J, under certain circumstances and subject to the limitations set forth therein, we will be required to pay down the outstanding term loans thereunder in an amount equal to 50% of annual excess cash flow (as defined in the form of the amended credit agreement attached hereto as Annex J) for any fiscal year ending on or after October 31, 2010. These restrictions could adversely affect our ability to finance our future operations or capital needs or to engage in other business activities that would be in our interest.

In addition, if the ABL financing is consummated, we will need to comply with the operating and financing restrictions in, and make the mandatory repayments required by, the ABL agreement in addition to those described above. The terms of the ABL financing remain subject to final negotiation and completion of definitive documentation. Under the investment agreement, these terms must either (1) reflect the terms and conditions summarized in the ABL term sheet attached as Annex K or (2) be, in the CD&R Fund s sole discretion (exercised in good faith), no less favorable (as to each item and in the aggregate) to the Company and the CD&R Fund (as a prospective stockholder of the Company) than the terms and conditions summarized in the ABL term sheet and, in each case described in clauses (1) and (2), otherwise will be either (a) in the CD&R Fund s reasonable discretion (exercised in good faith), consistent with and no less favorable to the Company and the CD&R Fund (as a prospective stockholder of the Company) than the terms and conditions of asset-based revolving credit financing transactions for companies sponsored by CD&R, or (b) in the CD&R Fund s sole discretion (exercised in good faith), acceptable to the CD&R Fund.

**Our businesses are seasonal, and our results of operations during our first two fiscal quarters may be adversely affected by seasonality.**

The metal coil coating, metal components and engineered building systems businesses, and the construction industry in general, are seasonal in nature. Sales normally are lower in the first calendar quarter of each year compared to the other three quarters because of unfavorable weather conditions for construction and typical business planning cycles affecting construction. This seasonality adversely affects our results of operations for the first two fiscal quarters. Prolonged severe weather conditions can delay construction projects and otherwise adversely affect our business.

**Price volatility and supply constraints in the steel market could prevent us from meeting delivery schedules to our customers or reduce our profit margins.**

Our business is heavily dependent on the price and supply of steel. The steel industry is highly cyclical in nature, and steel prices have been volatile in recent years and may remain volatile in the future. Steel prices are influenced by numerous factors beyond our control, including general economic conditions domestically and internationally, the availability of raw materials, competition, labor costs, freight and transportation costs, production costs, import duties and other trade restrictions. Steel prices increased through most of fiscal 2008 due to cost increases in iron, ore, coke, steel scrap, ocean freight and transportation costs. However, rapidly declining demand due to the effects of the credit crisis and global economic slowdown on the construction, automotive and industrial markets has resulted in many steel manufacturers around the world announcing plans to cut production by closing plants and furloughing union and non-union workers. Steel suppliers such as U.S. Steel and Arcelor Mittal are among these manufacturers who have cut production.

We do not have any long-term contracts for the purchase of steel and normally do not maintain an inventory of steel in excess of our current production requirements. However, from time to time, we may purchase steel in advance of

announced steel price increases. We can give you no assurance that steel will remain available or that prices will not continue to be volatile. While most of our contracts have escalation clauses that allow us, under certain circumstances, to pass along all or a portion of increases in the price of steel after the date of the contract but prior to delivery, we may, for competitive or other reasons, not be able to pass such price increases along. If the

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available supply of steel declines, we could experience price increases that we are not able to pass on to our customers, a deterioration of service from our suppliers or interruptions or delays that may cause us not to meet delivery schedules to our customers. Any of these problems could adversely affect our results of operations and financial condition.

**We rely on a few major suppliers for our supply of steel, which makes us more vulnerable to supply constraints and pricing pressure, as well as the financial condition of those suppliers.**

We rely on a few major suppliers for our supply of steel and may be adversely affected by bankruptcy, change in control, financial condition or other factors affecting those suppliers. During the first nine months of fiscal 2009, we purchased approximately 28% of our steel requirements from one vendor. No other vendor accounted for over 10% of our steel requirements during the first nine months of fiscal 2009. Due to unfavorable market conditions and our inventory supply requirements, during the first nine months of fiscal 2009 we purchased insignificant amounts of steel from foreign suppliers. Limiting purchases to domestic suppliers further reduces our available steel supply base. Therefore, recently announced cutbacks, a prolonged labor strike against one or more of our principal domestic suppliers, or financial or other difficulties of a principal supplier that affects its ability to produce steel, could have a material adverse effect on our operations. Furthermore, if one or more of our current suppliers is unable for financial or any other reason to continue in business or to produce steel sufficient to meet our requirements, essential supply of our primary raw materials could be temporarily interrupted and our business could be adversely affected. However, alternative sources, including foreign steel, are currently believed to be sufficient to maintain required deliveries.

**We may recognize additional goodwill or other intangible asset impairment charges.**

As of February 1, 2009, we estimated the market implied fair value of our goodwill was less than its carrying value by approximately $508.9 million, which was recorded as a goodwill impairment charge in the first quarter of fiscal 2009. This charge was an estimate based on the result of the preliminary allocation of fair value in the second step of the goodwill impairment test. However, due to the timing and complexity of the valuation calculations required under the second step of the test, we finalized our allocation of the fair value during the second quarter of fiscal 2009 with regard to property, plant and equipment and intangible assets in which their respective values are dependent on property, plant and equipment.

Based on our Phase III restructuring plan to close certain of our manufacturing facilities, management determined that there was an indicator to require us to perform another interim goodwill impairment test for each of our reporting units that had goodwill remaining as of May 3, 2009. As a result of this impairment indicator, we updated the first step of our goodwill impairment test in the second quarter of fiscal 2009 and determined that our carrying value exceeded our fair value at most of our reporting units with goodwill remaining in each of our operating segments, indicating that goodwill was potentially impaired. As a result, we initiated the second step of the goodwill impairment test. As of May 3, 2009, we determined the market implied fair value of our goodwill was less than its carrying value by approximately $102.5 million, which has been recorded as a goodwill impairment charge in the second quarter of fiscal 2009. The goodwill impairment charge from this triggering event was finalized in the second quarter of fiscal 2009.

In addition, a future triggering event, such as a decline in our cash flow projections, may cause additional impairments based on factors such as our stock price, projected cash flows, assumptions used, control premiums or other variables. Any future triggering event, such as declines in our cash flow projections, may also cause additional intangible asset impairments.

**Failure to retain or replace key personnel could hurt our operations.**

Our success depends to a significant degree upon the efforts, contributions and abilities of our senior management, plant managers and other highly skilled personnel, including our sales executives. These executives and managers have many accumulated years of experience in our industry and have developed personal relationships with our customers that are important to our business. If we do not retain the services of our key personnel or if

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we fail to adequately plan for the succession of such individuals, our customer relationships, results of operations and financial condition may be adversely affected.

**If we are unable to enforce our intellectual property rights, or if our intellectual property rights become obsolete, our competitive position could be adversely affected.**

We utilize a variety of intellectual property rights in our services. We have a number of U.S. patents, pending patent applications and other proprietary rights, including those relating to metal roofing systems, metal overhead doors, our pier and header system, our Long Bay® System and our building estimating and design system. We also have several registered trademarks and pending registrations in the United States. We view our portfolio of process and design technologies as one of our competitive strengths. We may not be able to successfully preserve these intellectual property rights in the future and these rights could be invalidated, circumvented or challenged. If we are unable to protect and maintain our intellectual property rights, or if there are any successful intellectual property challenges or infringement proceedings against us, our business and revenue could be materially and adversely affected.

**We incur costs to comply with environmental laws and have liabilities for environmental cleanups.**

Because we have air emissions, discharge wastewater, own and operate real property, and handle hazardous substances and solid waste, we incur costs and liabilities to comply with environmental laws and regulations and may incur significant additional costs as those laws and regulations or their enforcement change in the future or if there is an accidental release of hazardous substances into the environment. The operations of our manufacturing facilities are subject to stringent and complex federal, state and local environmental laws and regulations. These include, for example, (1) the federal Clean Air Act and comparable state laws and regulations that impose obligations related to air emissions, (2) the federal RCRA and comparable state laws that impose requirements for the storage, treatment, handling and disposal of waste from our facilities and (3) the CERCLA and comparable state laws that regulate the cleanup of hazardous substances that may have been released at properties currently or previously owned or operated by us or at locations to which we have sent waste for disposal. Failure to comply with these laws and regulations may trigger a variety of administrative, civil and criminal enforcement measures, including the assessment of monetary penalties, the imposition of remedial requirements, personal injury, property or natural resource damages claims and the issuance of orders enjoining future operations. For more information about costs we have incurred for environmental matters in recent years, see Item 3. Legal Proceedings and Item 7. Management s Discussion and Analysis of Financial Condition and Results of Operations in our annual report on Form 10-K for the year ended November 2, 2008.

**The industries in which we operate are highly competitive.**

We compete with all other alternative methods of building construction, which may be viewed as more traditional, more aesthetically pleasing or having other advantages over our products. In addition, competition in the metal components and metal buildings markets of the building industry and in the metal coil coating segment is intense. It is based primarily on:

quality;

service;

on-time delivery;

ability to provide added value in the design and engineering of buildings;

price;

speed of construction in buildings and components; and

personal relationships with customers.

We compete with a number of other manufacturers of metal components and engineered building systems and providers of coil coating services ranging from small local firms to large national firms. In addition, we and other

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manufacturers of metal components and engineered building systems compete with alternative methods of building construction. If these alternative building methods compete successfully against us, such competition could adversely affect us.

In addition, several of our competitors have recently been acquired by steel producers. Competitors owned by steel producers may have a competitive advantage on raw materials that we do not enjoy. Steel producers may prioritize deliveries of raw materials to such competitors or provide them with more favorable pricing, both of which could enable them to offer products to customers at lower prices or accelerated delivery schedules.

**Our acquisition strategy may be unsuccessful if we incorrectly predict operating results or are unable to identify and complete future acquisitions and integrate acquired assets or businesses.**

We have a history of expansion through acquisitions, and we believe that as our industry continues to consolidate, our future success will depend, in part, on our ability to complete acquisitions. Growing through acquisitions and managing that growth will require us to continue to invest in operational, financial and management information systems and to attract, retain, motivate and effectively manage our employees. Pursuing and integrating acquisitions, including our acquisition of Robertson-Ceco II Corporation, involves a number of risks, including:

- the risk of incorrect assumptions or estimates regarding the future results of the acquired business or expected cost reductions or other synergies expected to be realized as a result of acquiring the business;
- diversion of management s attention from existing operations;
- unexpected losses of key employees, customers and suppliers of the acquired business;
- conforming the financial, technological and management standards, processes, procedures and controls of the acquired business with those of our existing operations; and
- increasing the scope, geographic diversity and complexity of our operations.

Although we expect acquisitions to be an integral part of our future growth, we can provide no assurance that we will be successful in identifying or completing any acquisitions or that any businesses or assets that we are able to acquire will be successfully integrated into our existing business. We cannot predict the effect, if any, that any announcement or consummation of an acquisition would have on the trading prices of our securities.

**Our acquisition strategy subjects us to numerous risks that could adversely affect our results of operations.**

Acquisitions are an essential part of our growth strategy, and our ability to acquire additional businesses or operations on favorable terms is important to our long-term growth. Depending on conditions in the acquisition market, it may be difficult or impossible for us to identify businesses or operations for acquisition, or we may not be able to make acquisitions on terms that we consider economically acceptable. Even if we are able to identify suitable acquisition opportunities, our acquisition strategy depends upon, among other things, our ability to obtain financing and, in some cases, regulatory approvals, including under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder, which we refer to as the HSR Act.

Our incurrence of additional debt, contingent liabilities and expenses in connection with our acquisition of Robertson-Ceco II Corporation, or in connection with any future acquisitions, could have a material adverse effect on our financial condition and results of operations. Furthermore, our financial position and results of operations may fluctuate significantly from period to period based on whether significant acquisitions are completed in particular

periods. Competition for acquisitions is intense and may increase the cost of, or cause us to refrain from, completing acquisitions.

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## CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This prospectus/disclosure statement contains forward-looking statements. Any statements about our expectations, beliefs, plans, objectives, assumptions, future events or performance are not historical facts and may be forward-looking. These statements are often, but not always, made through the use of words or phrases such as anticipate, estimate, plans, projects, continuing, ongoing, expects, management believes, we believe, similar words or phrases. Accordingly, these statements involve estimates, assumptions and uncertainties that could cause actual results to differ materially from those expressed in them. Our actual results could differ materially from those anticipated in such forward-looking statements as a result of several factors more fully described under the caption Risk Factors and elsewhere in this prospectus/disclosure statement, including the exhibits hereto. All forward-looking statements are necessarily only estimates of future results and there can be no assurance that actual results will not differ materially from expectations, and, therefore, you are cautioned not to place undue reliance on such statements. Any forward-looking statements are qualified in their entirety by reference to the factors discussed throughout this prospectus/disclosure statement. Further, any forward-looking statement speaks only as of the date on which it is made, and we undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events, except as required by law.

Forward-looking statements regarding future events and our future performance, including the expected completion and timing of the restructuring and other information relating thereto, involve risks and uncertainties that could cause actual results to differ materially. These risks and uncertainties include, without limitation, the following items:

- industry cyclicality and seasonality and adverse weather conditions;
- ability to service or refinance our debt;
- fluctuations in customer demand and other patterns;
- raw material pricing and supply;
- competitive activity and pricing pressure;
- the ability to make strategic acquisitions accretive to earnings;
- general economic conditions affecting the construction industry;
- the current financial crisis and U.S. recession;
- changes in laws or regulations;
- our ability to obtain, on reasonable terms, if at all, the financing we will need in the future to meet our debt maturities and debt service obligations and to execute our business strategies;
- the volatility of our stock price and the potential risk of delisting from the NYSE;
- the potential dilution associated with future equity or equity-linked financings that we may undertake to raise additional capital and the risk that the equity pricing may not be favorable to us;

our ability to comply with the financial tests and covenants in our existing and future debt obligations;

the significant demands on our liquidity while current economic and credit conditions are severely affecting our operations, including the potential for acceleration on our outstanding indebtedness and our potential obligation to repurchase convertible notes upon consummation of the CD&R investment and on November 15, 2009 if this exchange offer is not fully subscribed and we do not have sufficient cash to satisfy the obligation of the remaining amount of convertible notes outstanding and of our other outstanding indebtedness;

the satisfaction of the conditions to consummate the recapitalization plan or, in the alternative, the prepackaged plan;

the impact of the prepackaged plan on our operations, credibility and valued relationships;

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the uncertainty surrounding the restructuring, including our ability to retain employees, customers and vendors;

the occurrence of any event, change or other circumstances that could give rise to the termination of the investment agreement;

the failure of the CD&R investment to close for any other reason;

the failure of the Company to enter into or consummate the term loan refinancing and/or the ABL financing for any reason;

the amount of the costs, fees, expenses and charges related to the restructuring; and

other risks detailed in the section titled Risk Factors and other factors and matters contained or incorporated in this prospectus/disclosure statement.

Although our management believes that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Undue reliance should not be placed on these forward-looking statements, which speak only as of the date of this prospectus/disclosure statement. We undertake no obligation to publicly release the results of any revisions to these forward-looking statements that may arise from changing circumstances or unanticipated events, except as otherwise required by law.

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## RECENT DEVELOPMENTS

As widely reported, worldwide financial markets began experiencing extreme disruptions in the second half of 2007, including, among other things, extreme volatility in security prices, severely diminished liquidity and credit availability, rating downgrades of certain investments and declining valuations of others. In addition, during the same period, the U.S. economy has been contracting, as evidenced by reduced demand for a range of goods and services and a declining gross domestic product. These economic developments affect our business in a number of ways. The overall decline in economic conditions has reduced demand for our products. In addition, the tightening of credit in financial markets adversely affects the ability of our customers to obtain financing for construction projects. These factors have resulted in a decrease in, or cancellation of, orders for our products and have also affected the ability of our customers to make payments. The uncertainty surrounding future economic activity levels and diminished credit availability along with steel price volatility have resulted in significantly decreased activity levels for our business.

During the first nine months of fiscal 2009, our sales volumes were significantly below expectations, primarily in the engineered buildings and components segments. When we began fiscal 2009, McGraw-Hill predicted a 12% decline in nonresidential construction in 2009. Subsequently, McGraw-Hill revised its forecast further downward and, as of July 2009, was predicting a 35% decline in nonresidential construction activity in 2009. McGraw-Hill reported a 48% decline in the period from January 2009 through July 2009 of nonresidential square footage compared to the same prior year period and approximately a 62% decline from January 2009 through July 2009 of nonresidential construction square footage in our commercial and industrial sectors compared to the same prior year period. McGraw-Hill also reported a 41.8% reduction in low-rise nonresidential (five stories or less) square-footage starts during the first nine months of fiscal 2009 compared with the same period in fiscal 2008.

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## THE RESTRUCTURING

### Overview

We are proposing the restructuring to address the Company s immediate need for liquidity in light of a potentially imminent default under, and acceleration of, our existing credit facility, which may occur as early as November 6, 2009 (which may, in turn, also lead to the acceleration of our other indebtedness, including under the convertible notes indenture), and the high likelihood that we will be required to repurchase the convertible notes on November 15, 2009, the first scheduled mandatory repurchase date under the convertible notes indenture.

The restructuring consists of four related transactions:

- the CD&R investment, which involves a $250.0 million investment by the CD&R Fund in the form of a private placement to the CD&R Fund of 250,000 shares of Series B convertible preferred stock (see The Restructuring Description of the CD&R Investment );
- a retirement of all of the convertible notes (see The Restructuring Retirement of the Convertible Notes );
- the term loan refinancing, which involves the refinancing of our existing credit facility under which we will repay approximately $143.3 million of the $293.3 million in principal amount of term loans outstanding under our existing credit facility and enter into an amendment to our existing credit agreement providing for a modification of the terms and maturity of the $150.0 million balance (see The Restructuring Description of the Term Loan Refinancing and the ABL Financing The Term Loan Refinancing ); and
- the ABL financing, which involves our entry into an ABL agreement for a $125.0 million asset-based loan facility (see The Restructuring Description of the Term Loan Refinancing and the ABL Financing The ABL Financing ).

Each of the transactions comprising the restructuring may be accomplished through either the out-of-court recapitalization plan or, in the alternative, the in-court prepackaged plan. If the restructuring is being accomplished through the recapitalization plan, the retirement of the convertible notes tendered in the exchange offer would be accomplished through this exchange offer and the refinancing of our existing credit facility would be accomplished through an amendment to our existing credit agreement. In the alternative, if the restructuring is being accomplished through the prepackaged plan, the retirement of the convertible notes as well as the refinancing of our existing credit facility would be accomplished through the prepackaged plan.

The closing of the exchange offer is conditioned on the satisfaction or, with the consent of the CD&R Fund, waiver of the minimum tender condition, which requires that at least 95% of the aggregate principal amount of outstanding convertible notes are validly tendered and not withdrawn in this exchange offer. If the restructuring is accomplished through the recapitalization plan, we intend, but are not required, to retire any remaining convertible notes outstanding after the consummation of this exchange offer by exercising our redemption right under the convertible notes indenture on or after November 20, 2009; if we do not so exercise our redemption right, such remaining convertible notes will otherwise be retired pursuant to the terms of the convertible notes indenture.

For a more detailed description of this exchange offer, see The Exchange Offer.

The restructuring, if successful, will increase the Company s capital and liquidity levels and reduce the amount of its outstanding debt. Specifically, upon the completion of the restructuring, we will reduce our outstanding indebtedness by (1) using the proceeds from the CD&R investment to retire the convertible notes by either funding the aggregate cash consideration in this exchange offer or, in the alternative, by paying holders of convertible notes pursuant to the prepackaged plan and (2) using the proceeds from the CD&R investment and a portion of the Company s existing cash on hand to repay approximately $143.3 million in principal amount of term loans under our existing credit facility.

We expect our indebtedness to be reduced from approximately $473.7 million as of August 2, 2009 to approximately $150.4 million at the closing of the restructuring, consisting of $150.0 million in principal amount of term loans under the amended credit agreement and $0.4 million of our industrial revenue bond. See Capitalization.

The ABL financing contemplated by the restructuring would provide us with up to $125.0 million in liquidity subject to availability under a borrowing base for working capital purposes and future expansion. Based on

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discussions with prospective lenders under the ABL agreement, we expect that because of borrowing base constraints, initial availability under the ABL agreement would be substantially less than the $125.0 million commitment, and may be as low as $45.0 million.

Assuming we are able to complete the restructuring, we expect that, for the foreseeable future, cash generated from operations, together with the proceeds of the ABL financing, will be sufficient to allow us to fund our operations, to increase working capital as necessary to support our strategy and to fund planned capital expenditures and expansions (including approximately $5.0 million expected, for the remainder of fiscal 2009).

In the event that we cannot effect the restructuring either through the recapitalization plan or the prepackaged plan because the conditions to the recapitalization plan or the prepackaged plan have not been satisfied or waived, we will face an immediate liquidity crisis. Absent the consummation of the restructuring, we do not expect, and we cannot assure you, that we will have, or have access to, sufficient liquidity to meet our debt repayment/repurchase obligations, including any potential acceleration of our existing term loan indebtedness and our obligation to repurchase the convertible notes at the option of the holders thereof on November 15, 2009, the next scheduled repurchase date. Due to our non-compliance with the required leverage, senior leverage and interest coverage ratios in our existing credit agreement, our outstanding indebtedness of approximately $293.3 million thereunder may be declared immediately due and payable as early as November 6, 2009, the date of expiration of the current waiver from the lenders under our existing credit agreement. In the event that we do not repay such borrowings upon acceleration, the lenders under our existing credit agreement could exercise their remedies as secured creditors with respect to the collateral securing such borrowings. A failure to pay or refinance such borrowings will also result in a default under the convertible notes indenture, which could also then be declared immediately due and payable, and under our swap agreement, which could then be terminated by the counterparty thereto. If all such indebtedness, which totaled approximately $473.7 million as of August 2, 2009, and such amounts payable pursuant to the termination of the swap agreement were to become due and payable on November 6, 2009, it would result in a material adverse effect on our financial condition, operations and debt service capabilities. As of August 2, 2009, excluding restricted cash, we had a current cash balance of approximately $105.4 million to address our liquidity needs. For a description of our non-compliance with the financial ratio covenants under our existing credit agreement, see our quarterly report on Form 10-Q for the quarter ended August 2, 2009, our current reports on Form 8-K filed on May 21, 2009, July 15, 2009 and August 27, 2009 and  Incorporation of Certain Documents by Reference.

In the event that we experience a liquidity crisis as described above, it could likely result in us filing for bankruptcy protection on terms other than as contemplated by the prepackaged plan. If we commence such a bankruptcy filing, holders of convertible notes may receive consideration that is substantially less than what is being offered under the restructuring.

**Background to the Restructuring**

In 2004, the Company entered into its existing senior secured credit facility and issued the convertible notes. The existing senior secured credit facility was initially comprised of a $125 million revolving credit facility and a $400 million term loan due on June 18, 2010. The revolving credit facility expired in June of 2009 and approximately $293.3 million of the term loans remain outstanding. The convertible notes mature in November 2024, but, on certain specified dates, the first of which is November 15, 2009, holders of convertible notes may, at their option, require the Company to purchase all or a portion of their convertible notes at a repurchase price equal to 100% of the principal amount of such convertible notes, plus accrued and unpaid interest thereon. The convertible notes are convertible into 24.9121 shares of common stock per $1,000 principal amount of the convertible notes (which equates to a conversion price of approximately $40.14 per share), but, in lieu of issuing all of such shares upon conversion, the Company is required to pay, in respect of a portion of such shares, cash up to the principal amount of the convertible notes and to issue shares of common stock in respect of the remaining value of the convertible notes that are so converted.

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Until the middle of 2008, in light of the trading range of the common stock (which was generally at or above the conversion price for the convertible notes), the Company s results of operations and cash flow, and the general robustness of the credit markets, the Company believed that:

- it was not likely that holders of convertible notes would exercise their rights to require the Company to repurchase their convertible notes in November 2009 instead of converting their convertible notes into common stock;
- the Company could refinance the convertible notes on commercially acceptable terms in the event that such holders were to exercise their rights; and
- it was not likely that the Company would have difficulty obtaining a new credit facility or an extension of the existing credit facility on commercially acceptable terms at the expiration of the existing credit facility.

In March 2008, in light of the nearing maturities of the existing credit facility, the Company began to explore alternatives for refinancing its existing credit facility.

In the second half of 2008, the Company s business began to be severely negatively affected by the domestic and global recession and, in particular, by the dramatic reduction in new non-residential construction in the United States. In addition, financial turmoil affecting the banking system and financial markets resulted in severe tightening in the credit markets, and the Company s stock price declined dramatically, from approximately $40 per share in early August 2008, to as low as approximately $15 per share in mid-October 2008. In late August to early September 2008, in light of these events and the increasing likelihood that holders of convertible notes would elect to exercise their rights to require the Company to repurchase their convertible notes at the earliest scheduled repurchase date (November 15, 2009), management began to explore the Company s alternatives for refinancing the convertible notes and continued to explore alternatives for refinancing its existing credit facility.

In late 2008, the Company retained J.P. Morgan Securities Inc. to assist the Company in discussions with our key relationship banks and to explore a comprehensive range of potential alternatives to strengthen the Company s balance sheet and enhance our long-term financial and competitive position, including but not limited to capital raises and strategic investments. Around this time, we also began to engage in discussions with a number of private equity investors about a potential investment in the Company.

In late November 2008, a representative of CD&R contacted the Company about a potential transaction involving the Company and a private investment fund managed by CD&R, and in December 2008, CD&R and the Company entered into a customary confidentiality agreement with respect to such potential transaction. In January 2009, representatives of CD&R met with representatives of the Company s senior management team. At this meeting, Company representatives conducted a management presentation in which they described the Company s operations and business.

From early February 2009 through early March 2009, the Company and CD&R negotiated the terms of a potential significant, minority investment in the Company of $200 million, and CD&R and its representatives and advisors engaged in a due diligence investigation of the Company s business. During this period, the global financial crisis continued and the economic outlook for the non-residential construction industry in general, and for the Company specifically, continued to deteriorate, and the Company s share price fell precipitously, to below $4 per share. On March 10, 2009, the Company issued its earnings release for its fiscal quarter ended January 31, 2009, in which it reported, among other things, that the effects of worsening economic conditions on our end markets and the rapid decline in steel prices caused tonnage volume shipped in the first quarter to decline 45% sequentially and 40% year-over-year, and that as a result of substantially lower utilization rates and high inventory costs, the Company

reported an operating loss for the period that was significantly increased by non-cash impairment charges. In March 2009, as a result of the worsening conditions in the capital markets, the downturn in the Company s end markets and the effect of these developments on the operating performance of and business forecast plan for the Company, CD&R indicated to the Company and its representatives that it no longer believed that the terms of the potential investment then under discussion were sufficient to address the Company s capital structure needs, and, while maintaining its interest in a potential transaction involving the Company, CD&R indicated to the Company and its representatives that it intended to revise such terms for a potential transaction that would provide a more comprehensive recapitalization and restructuring of the Company s balance sheet.

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In early March 2009, the Company engaged Greenhill & Co., LLC as an additional financial advisor.

In early April 2009, CD&R outlined to management the revised terms of a potential investment in the Company that would provide a more comprehensive solution to the Company s capital needs. The revised terms increased the amount of CD&R s potential investment in the Company from $200 million to $250.0 million and provided for a transaction in which a private investment fund managed by CD&R would purchase from the Company $250.0 million of preferred stock that would be convertible into 80% of the outstanding common stock of the Company on a fully diluted basis. In addition, in connection with the transaction, the private investment fund managed by CD&R would have the ability to appoint a majority of the directors of the Company and obtain other rights customarily afforded to controlling stockholders. The revised terms also indicated that the potential investment in the Company would be contingent upon the satisfaction of certain conditions aimed at addressing the Company s leverage and liquidity, including that (1) the Company would pay down a significant portion of the outstanding term loans and seek agreement of the lenders under its existing credit agreement to extend the maturity of the remaining term loans on amended terms, (2) the Company would have sufficient liquidity in the form of cash on the balance sheet and a committed revolver with a term commensurate with the extended remaining term loans and (3) the Company would launch and successfully complete an exchange offer for substantially all of the convertible notes. CD&R indicated that a potential investment on these terms was subject to satisfactory completion of CD&R s on-going due diligence investigation and other customary conditions.

From mid-March through May 2009, JP Morgan contacted approximately six industry participants and approximately 15 financial investors and private equity firms to gauge their interest in a potential investment in, or acquisition or recapitalization of, the Company. Only a few of these contacted firms were willing to execute a confidentiality agreement and begin discussions, and ultimately none expressed any interest in pursuing a transaction other than restructuring transactions at valuation levels that implied no recovery for holders of common stock and substantial impairment for holders of convertible notes. In particular, the Company received no indications of interest competitive with the value and commitment to completion offered by CD&R.

By late April 2009, CD&R and the Company, although not yet agreeing to the final terms of the transaction, had agreed on a basis for continuing discussions regarding a CD&R investment transaction, including that:

- the Company would offer to pay down approximately $143.0 million in principal amount of term loans outstanding under our existing credit facility and seek agreement of the term loan lenders to extend the maturity of the remaining $150.0 million for a period of five years on amended terms;

- the Company would seek the agreement of a group of lenders to commit to a new asset-backed revolving credit facility, in the amount of at least $125.0 million;

- the Company would launch an exchange offer to acquire substantially all of the convertible notes in exchange for a combination of cash and equity consideration; and

- if the foregoing steps and transactions could be accomplished, at the concurrent closings of such transactions, CD&R would purchase from the Company $250.0 million of preferred stock, which would be convertible into 75% of the outstanding common stock on a fully diluted basis, but before giving effect to dilution in respect of any common stock required to be issued in such exchange offer to holders of convertible notes.

Accordingly, in May and June 2009, the Company and its representatives together with CD&R and its representatives engaged in discussions with the agent banks and one other lead financial institution under the Company s existing credit agreement and revolving credit facility (which were bound by confidentiality obligations to the Company and were able to receive material non-public information about the Company).

During May 2009, in light of the dramatic decline during the first two fiscal quarters ended April 30, 2009 of the Company s results of operations, including its Adjusted EBITDA (a financial measure used and defined in the existing credit agreement), due to the continuing recession and economic crisis, the Company s management became concerned that the Company would fall out of compliance with several financial covenants under the existing credit agreement, which failure would result in a default that would allow the lenders to accelerate and demand immediate repayment of the entire outstanding term loans. If the Company were unable to make the

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required repayment, it would also be in default under the convertible notes indenture, which could then be declared immediately due and payable. In order to obtain additional time to complete a transaction with CD&R or an alternative refinancing or restructuring, on May 20, 2009, the Company obtained a waiver from its lenders, including waiver of its financial maintenance covenants and restrictions on the Company s ability to enter into an agreement for a substantial investment in the Company. The waiver was effective through July 15, 2009, with an automatic extension to September 15, 2009, upon the signing of a definitive agreement for an investment. In the press release announcing that the Company obtained the waiver from its lenders, the Company also announced that it had made significant progress with a leading private equity firm with regard to a substantial investment in the Company, and that it was in advanced stages of negotiations with that private equity firm. At the time of the press release, although CD&R continued to indicate a high level of commitment to completing a transaction with the Company, CD&R indicated that it was unwilling to allow its name to be associated with a transaction until definitive documentation was executed, and, given the conditions to a transaction set forth in CD&R s revised proposal with respect to the Company s leverage and liquidity, CD&R indicated that it was not prepared to execute definitive documentation until more progress was made with respect to the proposed refinancing.

On June 15, 2009, without yet reaching an agreement with the lenders under the Company s existing credit agreement, the Company s revolving credit facility matured, leaving the Company with cash on hand as its only source to address its liquidity needs.

In June 2009, senior management and an industry participant, which we refer to as the Industry Participant, spoke regarding the Industry Participant s potential interest in acquiring the Company. The Industry Participant had not shown interest when originally contacted by JP Morgan in the spring of 2009, but the Industry Participant explained that, due to improvements in its own business in the intervening two months, it had determined to reconsider a possible acquisition of the Company. In early and mid-July 2009, the Company s senior management, together with Greenhill, met twice in person with senior management of the Industry Participant and its financial advisor, and throughout July 2009, the Industry Participant engaged in due diligence of the Company while it continued to evaluate whether to proceed to make an acquisition proposal for the Company.

During June 2009, negotiations continued with CD&R with respect to the final terms of the CD&R investment in the Company, and negotiations continued between the Company and its representatives, on the one hand, and a group of the Company s lenders, on the other hand, with respect to the terms of the amendment and extension to the Company s existing credit agreement that would be a condition to a CD&R investment. In addition, during this period, the Company and its representatives, together with CD&R and its representatives, began negotiations with certain of the Company s lenders with respect to a new asset-backed revolving credit facility that would be a condition to a CD&R investment. In mid-July 2009, in order to obtain additional time to complete these negotiations and discussions, the Company obtained an extension of the credit agreement waiver, which had originally been set to expire on July 15, 2009, so that it would expire on August 14, 2009, which date would automatically extend to September 15, 2009 upon the signing of a definitive agreement for an investment.

Throughout July and the first half of August 2009, negotiations continued between the Company and CD&R with respect to the investment, and between the Company and the Industry Participant with respect to a potential acquisition of the Company. In addition, during this period, (a) the Company and its representatives, together with CD&R and its representatives, continued negotiations with certain of the Company s lenders with respect to the terms of a potential new asset-backed revolving credit facility and (b) CD&R and its representatives joined the Company and its representatives to continue discussions with certain of the Company s lenders with respect to the terms of a potential amendment of the Company s existing credit agreement to amend and extend a portion of the term loans outstanding thereunder. During this time, CD&R and the Company discussed that, if the consent of 100% of the lenders under the Company s existing credit agreement could not be obtained or if the holders of substantially all of the convertible notes opted not to tender their convertible notes in an exchange offer for a combination of cash and

Company common stock, then both the Company and CD&R would be willing to effect the CD&R investment and the restructuring of the Company s balance sheet through a prepackaged plan of reorganization. A prepackaged plan of reorganization would require acceptance by a smaller percentage of the lenders under our existing credit facility and holders of convertible notes, thereby increasing the likelihood that the CD&R investment and the restructuring of the Company s balance sheet could be achieved (see Summary The Prepackaged Plan ).

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On August 12, 2009, the Industry Participant informed the Company that it and its board of directors had determined not to make a proposal to acquire the Company. From August 12 through August 14, 2009, the Company and CD&R completed negotiation and documentation of the CD&R investment.

During the evening of August 13, 2009, the Company s board of directors met to consider the proposed investment and related transactions. The Company s board of directors had met in person and by telephone on numerous occasions over the previous weeks and months, including an in-person meeting on August 10, 2009, and had received numerous presentations from management regarding the Company s business, operations and prospects, and from management JP Morgan and Greenhill regarding the Company s search for a strategic, financial or restructuring solution to the Company s impending debt repayment obligations under the existing credit facility and the convertible notes, regarding the negotiations with and terms of the proposed transaction with CD&R and regarding possible outcomes and recovery scenarios to creditors and stockholders in the event the Company were to file for bankruptcy protection on terms other than as contemplated by the prepackaged plan. Among other things, the directors considered (1) the absence of interest from any third parties other than the Industry Participant, which had withdrawn its interest, (2) the potentially imminent default under, and acceleration of, the Company s existing credit facility (which default, in turn, could lead to the potential acceleration of the Company s other indebtedness, including under the convertible notes indenture), and that such default could have occurred as early as August 15, 2009 (the expiration date of the waiver then in effect, which waiver was subsequently extended to November 6, 2009), and (3) the high likelihood that the Company would be required to repurchase the convertible notes on November 15, 2009. At the August 13, 2009 board meeting, Greenhill delivered its opinion, subsequently confirmed in writing, that, as of such date, and based on and subject to, among other things, the limitations and assumptions set forth in the opinion, the consideration to be received by the Company pursuant to the proposed CD&R investment is fair, from a financial point of view, to the Company (which opinion was subsequently superseded by an updated opinion delivered to the Company s board of directors on August 31, 2009 and described below). See The Restructuring Opinion of Greenhill Relating to the CD&R Investment.

Based on the presentations and discussions at the August 13, 2009 meeting and at prior meetings, the Company s board of directors believed that, in the absence of a CD&R transaction, the Company would likely be forced to file for bankruptcy protection on terms other than as contemplated by the prepackaged plan, that such a bankruptcy filing would materially adversely affect the Company s business and destroy value (see Risk Factors Risks Relating to NOT Accepting the Exchange Offer or Rejecting the Prepackaged Plan ), that the CD&R transaction would result in the Company s receipt of $250.0 million of additional capital and would create significant value for the Company, its creditors and shareholders, and that the CD&R transaction would create significantly greater value than would be created in a bankruptcy case with respect to a filing on terms other than as contemplated by the prepackaged plan or would likely be created in a restructuring in which either no new outside capital would be provided, or in which existing creditors would be required to contribute new capital. Following further discussion, the Company s board of directors unanimously approved the original investment agreement and the transactions contemplated thereby. During the evening of August 13, 2009, the Company, CD&R and their respective outside legal counsels finalized the original investment agreement, and in the early morning of August 14, 2009, the parties executed the original investment agreement and announced the transaction (see The Restructuring Description of the CD&R Investment ), including the Company s intention to commence an exchange offer to acquire the convertible notes in exchange for $500 in cash and 125 shares of Common Stock for each $1,000 in principal amount of convertible notes tendered and not withdrawn. On a pro forma basis, after taking into account the common stock that would be issued to holders of convertible notes under the terms of the proposed exchange offer, the CD&R Fund s ownership of the Company would be approximately 71.5% while holders of convertible notes would receive, in the aggregate, shares of common stock representing approximately 15.0% of the Company.

On August 21, 2009, the Company obtained another extension, dated as of August 20, 2009, of the credit agreement waiver to November 6, 2009, pursuant to which, in addition to waiving certain of the Company s financial covenants,

the term loan lenders waived any default or event of default resulting from the company s execution of the original investment agreement and/or arising from the issuance of the Series B convertible preferred stock.

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After the announcement of the execution of the original investment agreement, the Company began negotiations with representatives of a group of existing holders of convertible notes to increase the proposed consideration in the exchange offer. In connection therewith, the Company entered into confidentiality agreements with such representatives and began to negotiate with such holders, as well as the CD&R Fund, for an amended transaction.

On August 26, 2009, the Company, the CD&R Fund and a group of holders of convertible notes determined that there would be a basis for discussing amended terms to the exchange offer contemplated by the original investment agreement if holders of convertible notes representing more than two-thirds of the outstanding convertible notes would execute a lock-up and voting agreement committing such noteholders to tender their convertible notes in the amended exchange offer. Such amended terms contemplated that the CD&R Fund would continue to invest $250.0 million in the Company but its pro forma ownership of the Company would be approximately 68.5%, and holders of convertible notes would receive $500 cash and 390 shares of common stock for each $1,000 principal amount of convertible notes tendered in such proposed exchange offer, representing, in the aggregate, approximately 24.5% of the ownership of the Company on a pro forma basis. On August 27, 2009, the Company issued a press release announcing its entry into negotiations with the CD&R Fund and the group of noteholders on the basis of such possible amended terms. On August 28, 2009, in light of the ongoing discussions among the Company, the CD&R Fund and the group of noteholders on possible revised terms for the exchange offer contemplated by the original investment agreement, the Company and the CD&R Fund executed an amendment to the investment agreement to extend the date by which the Company would be obligated to commence the exchange offer. From August 25, 2009 to August 29, 2009, the Company, the CD&R Fund and a group of noteholders, and their respective representatives, continued negotiations regarding terms of a lock-up and voting agreement.

On the evening of August 31, 2009, the Company s board of directors met to consider the proposed amended terms. Among other things, the directors weighed the costs and benefits of the increased certainty of success of the restructuring that a lock-up and voting agreement would provide against the reduced ownership of the Company by the current stockholders on a pro forma basis. At the August 31, 2009 board meeting, Greenhill delivered a revised opinion, subsequently confirmed in writing, that, as of such date, and based on and subject to, among other things, the limitations and assumptions set forth in the opinion, the consideration to be received by the Company pursuant to the revised proposed CD&R investment is fair, from a financial point of view, to the Company. This opinion superseded the opinion of Greenhill previously delivered to the Company s board of directors on August 13, 2009.

Following discussions, the Company s board of directors unanimously approved the amended terms contemplated by amendment no. 2 to the investment agreement (see Annex E). In addition, the Audit Committee met and redetermined that the delay necessary in securing stockholder approval prior to the issuance of the Series B convertible preferred stock and of the common stock pursuant to the exchange offer would seriously jeopardize the financial viability of the Company and approved the reliance by the Company on the exception to the NYSE s Shareholder Approval Policy contained in Paragraph 312.05 of the NYSE Listed Company Manual. The Audit Committee had previously determined the same in connection with the execution of the original investment agreement.

On August 31, 2009, (1) the Company and the CD&R Fund executed amendment no. 2 to the investment agreement which, among other things, amended the terms of the exchange offer contemplated by the original investment agreement to provide that holders of convertible notes would receive $500 cash and 390 shares of common stock for each $1,000 principal amount of convertible notes tendered in the exchange offer, and (2) concurrently with such execution, the Company and a group of noteholders representing more than 75% of the outstanding convertible notes executed the lock-up and voting agreement. Certain of the members of the group of noteholders also hold term loans and other obligations under our existing credit agreement and agreed to support the term loan refinancing as part of the lock-up and voting agreement. Subsequent to the execution of the lock-up agreement, additional holders of notes became party to the lock-up agreement, increasing the aggregate amount of convertible notes subject thereto to 79% of the outstanding convertible notes.

**Reasons for the Restructuring**

The Company is pursuing the restructuring in order to address its imminent debt repayment and repurchase obligations. We are currently facing a potentially imminent default under, and acceleration of, our existing credit facility, which may occur as early as November 6, 2009 (which may, in turn, also lead to a default under, and

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acceleration of, our other indebtedness, including under the convertible notes indenture). In addition, there is a high likelihood that we will be required to repurchase the convertible notes on November 15, 2009, the first scheduled mandatory repurchase date under the convertible notes indenture. In short, we may be required to repay or repurchase $473.7 million of our outstanding indebtedness by the middle of November. As of August 2, 2009, the Company had only approximately $105.4 million of unrestricted cash with which to satisfy these obligations, and no realistic ability to obtain the necessary additional funds in the capital markets.

We expect that the restructuring, if successful, will increase the Company s capital and liquidity levels and reduce the amount of our outstanding debt. Specifically, upon the completion of the restructuring, we expect that our indebtedness would be reduced from approximately $473.7 million as of August 2, 2009 to approximately $150.4 million at the closing of the restructuring (consisting of $150.0 million in principal amount of term loans under the amended credit agreement and $0.4 million of our industrial revenue bond).

In addition, the ABL financing contemplated by the restructuring will provide us with liquidity in the range of $45.0 million to $125.0 million (based upon our borrowing base from time to time), for working capital purposes and future expansion.

Assuming we are able to complete the restructuring, we expect that, for the foreseeable future, cash generated from operations, together with the proceeds of the ABL financing, will be sufficient to allow us to service our debt, fund our operations, increase working capital as necessary to support our strategy and to fund planned capital expenditures and expansions (including approximately $5 million expected for the remainder of fiscal 2009).

If we do not complete the restructuring either through the recapitalization plan or the prepackaged plan, we will face an immediate liquidity crisis. If we do not complete the restructuring, we do not expect, and we cannot assure you, that we will have, or have access to, sufficient liquidity (1) to meet our debt repayment/repurchase obligations, including any potential acceleration of our existing credit facility, which may occur as early as November 6, 2009 (which may, in turn, also lead to a default under, and acceleration of, our other indebtedness, including under the convertible notes indentures) and (2) to meet our obligation to repurchase the convertible notes at the option of the holders thereof on November 15, 2009, the next scheduled repurchase date.

In such event, we will have an immediate need to pursue other alternatives to manage our liquidity needs, including potentially filing for bankruptcy protection on terms other than as contemplated by the prepackaged plan. Based upon our efforts to identify alternatives to the restructuring described above under The Restructuring Background to the Restructuring, we do not expect, and there can be no assurance, that any alternative to such bankruptcy filing would be found.

We believe that a bankruptcy (other than the prepackaged plan) could result in recoveries to the companies creditors and equity holders substantially below those expected to result from the restructuring or prepackaged plan, and could materially adversely affect our business and prospects.

We therefore determined to pursue this restructuring because we believed that it was superior to any existing alternative.

**Opinion of Greenhill Relating to the CD&R Investment**

On August 31, 2009, Greenhill rendered its oral opinion, which was subsequently confirmed in writing, to our board of directors and which addressed, subject to the limitations and assumptions set forth in the opinion, only the fairness, from a financial point of view, to the Company of the consideration to be paid by the CD&R Fund for the Series B convertible preferred stock pursuant to the investment agreement. **GREENHILL S OPINION AND ANALYSIS DO**

**NOT ADDRESS ANY OTHER ASPECT OF THE RESTRUCTURING, INCLUDING THE FAIRNESS OF THIS EXCHANGE OFFER AND THE CONSIDERATION TO BE PAID TO THE HOLDERS OF CONVERTIBLE NOTES PURSUANT TO THIS EXCHANGE OFFER, AND DO NOT CONSTITUTE RECOMMENDATIONS AS TO WHETHER OR NOT A HOLDER OF CONVERTIBLE NOTES OR ANY OTHER PERSON SHOULD TENDER ITS CONVERTIBLE NOTES IN THIS EXCHANGE OFFER OR ACCEPT OR REJECT THE PREPACKAGED PLAN. GREENHILL S OPINION AND ANALYSIS WERE NOT PREPARED WITH A VIEW TOWARDS PUBLIC DISCLOSURE, AND GREENHILL BELIEVES ITS OPINION AND ANALYSIS ARE OF LITTLE OR NO RELEVANCE TO A**

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**DECISION BY A HOLDER OF CONVERTIBLE NOTES OR ANY OTHER PERSON WHETHER OR NOT TO TENDER ITS CONVERTIBLE NOTES IN THIS EXCHANGE OFFER OR TO ACCEPT OR REJECT THE PREPACKAGED PLAN.**

Based upon the express limitations contained in its opinion, Greenhill believes that holders of convertible notes and other persons (other than our board of directors) are not entitled to rely upon or otherwise use its opinion or analysis for any purpose, and Greenhill would intend to assert the substance of the noted limitations on use against any holder of convertible notes or other such person seeking to or otherwise claiming a right to rely upon or otherwise use such opinion or analysis.

Greenhill is not aware of any controlling court decision addressing the validity of such a claim. It is possible that holders of convertible notes or other persons could seek to assert a claim that they may rely upon or otherwise use the opinion or analysis, which Greenhill would intend to oppose. The validity of any such claim, if asserted, could only be finally determined by a court of competent jurisdiction. Subject to the foregoing, Greenhill has not objected to the inclusion of its opinion or the summary of its analysis as part of this prospectus/disclosure statement.

The foregoing factors should be taken into account in deciding whether Greenhill s opinion and analysis should be considered by readers of this document.

The full text of the written opinion of Greenhill, dated August 31, 2009, which sets forth, among other things, the assumptions made, procedures followed, matters considered and limits on the opinion and the review undertaken in connection with rendering the opinion, is attached as Annex L to this prospectus/disclosure statement and is incorporated herein by reference. This opinion replaced and superseded Greenhill s opinion, dated August 13, 2009. The summary of Greenhill s August 31, 2009 opinion that is set forth below is qualified in its entirety by reference to the full text of the opinion.

In connection with rendering the opinion described above, Greenhill, among other things:

- reviewed the investment agreement, dated as of August 14, 2009, by and between the Company and the CD&R Fund, as amended by an amendment thereto, dated August 28, 2009, and as proposed to be amended by a draft of Amendment No. 2 thereto (including certain related documents), which as amended by such draft Amendment No. 2, we refer to as the draft investment agreement;

- reviewed a draft of the form of certificate of designations, preferences and rights of the Series B convertible preferred stock included as an exhibit to the draft investment agreement;

- reviewed the form of the amended credit agreement attached hereto as Annex J;

- reviewed a draft of the ABL term sheet attached hereto as Annex K;

- reviewed the form of the stockholders agreement attached hereto as Annex F;

- reviewed the form of the indemnification agreement attached hereto as Annex I;

- reviewed the form of the registration rights agreement attached hereto as Annex H;

- reviewed a draft of the lock-up and voting agreement;

- reviewed certain publicly available financial statements of the Company;

reviewed certain other publicly available business and financial information relating to the Company that Greenhill deemed relevant;

reviewed certain information, including financial forecasts and other financial and operating data concerning the Company, prepared by the management of the Company;

discussed the past and present operations and financial condition and the prospects of the Company with senior executives of the Company;

compared the equity value implied by the consideration to be paid for the Series B convertible preferred stock pursuant to the investment agreement with the trading valuations of certain publicly traded companies that Greenhill deemed relevant;

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compared the equity value implied by the consideration to be paid for the Series B convertible preferred stock pursuant to the investment agreement with that received in certain publicly available transactions that Greenhill deemed relevant;

compared the equity value implied by the consideration to be paid for the Series B convertible preferred stock pursuant to the investment agreement to the valuation derived by discounting future cash flows and a terminal value of the business at discount rates Greenhill deemed appropriate;

reviewed the illustrative bankruptcy recoveries by the Company s stockholders and creditors implied by management s projections under various scenarios;

participated, at the written request of the Company, in discussions and negotiations among representatives of the Company and its legal advisors and representatives of the CD&R Fund and its legal advisors; and

performed such other analyses and considered such other factors as Greenhill deemed appropriate.

Greenhill s opinion is for the information of our board of directors and was rendered to our board of directors in connection with their consideration of the CD&R investment. The opinion may not be used for any other purpose without Greenhill s prior written consent. Greenhill was not requested to opine as to, and Greenhill s opinion does not in any manner address, (1) the underlying business decision to proceed with or effect the CD&R investment or the restructuring, (2) any of the financial or other terms of the restructuring or (3) any plan of reorganization under chapter 11 of the Bankruptcy Code. Greenhill expressed no opinion as to the fairness of any portion or aspect of the CD&R investment or the restructuring to the holders of any class of securities, creditors or other constituencies of the Company, the fairness of any portion or aspect of the CD&R investment or the restructuring to any one class or group of the Company s security holders relative to any other class or group of the Company s security holders, or the solvency, creditworthiness or fair value of the Company under any applicable laws relating to bankruptcy, insolvency, fraudulent conveyance or similar matters. In particular, Greenhill expressed no opinion as to the prices at which any publicly-traded shares of common stock of the Company will trade at any future time. Greenhill s opinion was approved by a fairness committee. The opinion is not intended to be and does not constitute a recommendation to the members of our board of directors as to whether they should approve the CD&R investment or the investment agreement.

In giving its opinion, Greenhill assumed and relied upon, without independent verification, the accuracy and completeness of all information that was either publicly available or supplied or otherwise made available to it by management of the Company for the purposes of its opinion. Greenhill further relied upon the assurances of the management of the Company that they were not aware of any facts or circumstances that would make such information inaccurate or misleading. With respect to financial forecasts, projections and other data furnished or otherwise provided to it, Greenhill assumed that they were reasonably prepared on a basis reflecting the best then currently available estimates and good faith judgments of the management of the Company as to those matters, and Greenhill relied on such forecasts and data in arriving at its opinion. Greenhill expressed no opinion with respect to such financial projections and data or the assumptions upon which they were based. In addition, Greenhill did not make any independent appraisal of the assets or liabilities of the Company, nor was it furnished with any such valuations or appraisals. At the direction of our board of directors, Greenhill based its review of the potential recoveries by the Company s stockholders and creditors in a bankruptcy of the Company on those implied by management s projections under various scenarios. Greenhill has assumed that the CD&R investment will be consummated in accordance with the terms set forth in the final, executed investment agreement, the terms of which it has assumed are identical in all material respects to the draft investment agreement reviewed by Greenhill, without any waiver of any material terms or conditions set forth in the investment agreement, and that the CD&R investment

and restructuring will be effectuated as contemplated therein. Greenhill has assumed and relied upon, without independent verification, the accuracy of the representations and warranties contained in the investment agreement and that no indemnification payments will be made by the Company under the investment agreement. Greenhill has further assumed that all material governmental, regulatory and other consents and approvals necessary for the consummation of the CD&R investment will be obtained without any effect on the Company, the CD&R investment or the contemplated benefits of the CD&R investment in any way meaningful to its analysis. Greenhill s opinion was necessarily based on financial, economic, market and other conditions as in effect on, and the information made

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available to it as of, the date of the opinion. It should be understood that subsequent developments may affect its opinion, but Greenhill does not have any obligation to update, revise or reaffirm its opinion.

The following is a summary of the material financial and comparative analyses delivered by Greenhill to the Company s board of directors in connection with rendering its opinion described above. The summary set forth below does not purport to be a complete description of the analyses performed by Greenhill, nor does the order of analyses described represent relative importance or weight given to those analyses by Greenhill. Some of the summaries of the financial analyses include information presented in tabular format. The tables must be read together with the full text of each summary and are not alone a complete description of Greenhill s financial analyses.

**Financial Forecast**

For the purposes of Greenhill s analysis, the Company provided to Greenhill, and instructed Greenhill to rely on, the financial forecast prepared by management that is summarized below:

| | FY2009 (P) | FY2010 (P) | FY2011 (P) | FY2012 (P) |
|---|---|---|---|---|
| | ($ in millions) | | | |
| Revenue | $ 961 | $ 861 | $ 1,084 | $ 1,331 |
| Gross Profit | $ 161 | $ 190 | $ 252 | $ 335 |
| *Margin (%)* | *16.8%* | *22.1%* | *23.2%* | *25.2%* |
| Adjusted EBIT(1) | $ (3) | $ 1 | $ 36 | $ 93 |
| *Margin (%)* | *(0.3)%* | *0.1%* | *3.4%* | *7.0%* |
| Adjusted EBITDA(1) | $ 36 | $ 36 | $ 73 | $ 127 |
| *Margin (%)* | *3.8%* | *4.1%* | *6.7%* | *9.6%* |
| Capital Expenditures | $ (23) | $ (9) | $ (50) | $ (40) |

(1) Excludes the effects of the significant charges incurred in 2009 for lower of cost or market adjustments, asset impairments, goodwill and intangible asset impairments, and debt extinguishment and refinancing costs.

**Comparable Company Analysis**

Greenhill reviewed revenue, adjusted equity value and enterprise value as multiples of estimated earnings before interest, taxes, depreciation and amortization, which we refer to as EBITDA, commonly referred to as trading multiples, of the Company and selected companies in the building products sector and selected steel producers with businesses deemed comparable to the Company for the purposes of this analysis. The companies reviewed by Greenhill are listed below:

| Building Products | Steel Producers with Businesses Comparable to the Company |
|---|---|
| Kingspan Group | Nucor |
| Acuity Brands | Bluescope Steel |
| Armstrong World Industries | |
| Worthington Industries | |
| Simpson Manufacturing | |
| Interface | |
| Gibraltar Industries | |

Apogee
Quanex Building Products

Although no company is directly comparable to the Company, Greenhill selected these companies because it believed that they had characteristics that were instructive for purposes of its analysis. Greenhill reviewed the trading multiples for the selected companies based upon publicly available I/B/E/S estimates.

Based upon these multiples, and applying its professional judgment, Greenhill selected a range of EBITDA trading multiples from 7.0x to 9.5x and applied this range to management s forecasted EBITDA for each of 2009

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and 2010. This analysis indicated the following ranges of enterprise values, equity values and equity values per share for the Company:

| | | | | | 9 |
|---|---|---|---|---|---|
| SharpSafety Products | 106 | 113 | (6) | (1) | (5) |
| Clinical Care Products | 96 | 99 | (3) | (4) | 1 |
| Other Products | 85 | 95 | (11) | (7) | (4) |
| | $ 1,627 | $ 1,587 | 3 | (4) | 7 |

| | Quarters Ended | | | | |
|---|---|---|---|---|---|
| | December 26, 2008 | December 28, 2007 | Percentage Change | Percentage Change Due To Currency | Percentage Change Due To Operations |
| U.S. | $ 737 | $ 687 | 7% | % | 7% |
| Non-U.S. | 890 | 900 | (1) | (8) | 7 |
| | $ 1,627 | $ 1,587 | 3 | (4) | 7 |

Net sales for the first quarter of fiscal 2009 increased $40 million to $1.627 billion, compared with $1.587 billion for the first quarter of fiscal 2008. Unfavorable currency exchange fluctuations negatively impacted the net sales of the segment by $75 million. The increase in net sales for the segment was primarily driven by increased sales of endomechanical instruments, energy devices, and soft tissue repair products. The increase in sales of endomechanical instruments was primarily driven by continued demand for our Autosuture laparoscopic instruments in the United States and Europe, while the increase in energy devices net sales resulted primarily from higher sales volume of vessel sealing products worldwide. The increase in sales of soft tissue repair products was primarily due to increased sales of hernia mesh products in the United States and, to a lesser extent, in Europe.

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Operating income for the first quarter of fiscal 2009 increased $27 million to $463 million, compared with the first quarter of fiscal 2008. Our operating margin was 28.5% for the quarter ended December 26, 2008, compared with 27.5% for the quarter ended December 28, 2007. The increase in our operating income was primarily attributable to increased gross profit on the favorable sales performance discussed above, partially offset by an increase in selling and marketing expenses.

***Imaging Solutions***

Net sales for Imaging Solutions by groups of products and by geography are as follows (dollars in millions):

| | Quarters Ended | | | | |
|---|---|---|---|---|---|
| | December 26, 2008 | December 28, 2007 | Percentage Change | Percentage Change Due To Currency | Percentage Change Due To Operations |
| Radiopharmaceuticals | $ 120 | $ 135 | (11)% | (3)% | (8)% |
| Contrast Products | 145 | 156 | (7) | (4) | (3) |
| | $ 265 | $ 291 | (9) | (4) | (5) |

| | Quarters Ended | | | | |
|---|---|---|---|---|---|
| | December 26, 2008 | December 28, 2007 | Percentage Change | Percentage Change Due To Currency | Percentage Change Due To Operations |
| U.S. | $ 158 | $ 179 | (12)% | % | (12)% |
| Non-U.S. | 107 | 112 | (4) | (9) | 5 |
| | $ 265 | $ 291 | (9) | (4) | (5) |

Net sales for the first quarter of fiscal 2009 decreased $26 million, or 9%, to $265 million, compared with $291 million for the first quarter of fiscal 2008. Contrast Products net sales decreased $11 million, resulting primarily from unfavorable currency exchange rate fluctuations and, to a lesser extent, a decrease in sales volume and continued pricing pressures in the United States. Radiopharmaceutical net sales decreased $15 million, primarily resulting from molybdenum supply constraints due to the shut down of a third-party nuclear reactor.

Operating income for the first quarter of fiscal 2009 increased $11 million to $21 million, compared with the first quarter of fiscal 2008. Our operating margin was 7.9% for the quarter ended December 26, 2008, compared with 3.4% for the quarter ended December 28, 2007. The increase in operating income and margin was primarily due to a decrease in legal costs of $26 million, the majority of which related to a $17 million legal settlement incurred during the first quarter of fiscal 2008. This increase was partially offset by decreased gross profit resulting from the sales decline discussed above.

***Pharmaceutical Products***

Net sales for Pharmaceutical products by groups of products and by geography are as follows (dollars in millions):

| | Quarters Ended | | | | |
|---|---|---|---|---|---|
| | December 26, 2008 | December 28, 2007 | Percentage Change | Percentage Change Due To Currency | Percentage Change Due To Operations |
| Dosage Pharmaceuticals | $ 237 | $ 127 | 87% | % | 87% |
| Active Pharmaceutical Ingredients | 94 | 94 | | (7) | 7 |

| | | | | | |
|---|---|---|---|---|---|
| $ 331 | $ 221 | 50 | (3) | 53 |

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| | Quarters Ended | | | | |
|---|---|---|---|---|---|
| | December 26, 2008 | December 28, 2007 | Percentage Change | Percentage Change Due To Currency | Percentage Change Due To Operations |
| U.S. | $ 302 | $ 197 | 53% | % | 53% |
| Non-U.S. | 29 | 24 | 21 | (29) | 50 |
| | $ 331 | $ 221 | 50 | (3) | 53 |

Net sales for the first quarter of fiscal 2009 increased $110 million, or 50%, to $331 million, compared with $221 million for the first quarter of fiscal 2008. The increase resulted from dosage pharmaceuticals sales, $96 million of which resulted from the license agreement entered into during the fourth quarter of fiscal 2008, which allows us to sell limited quantities of oxycodone hydrochloride extended-release tablets for a limited period of time ending in 2009. We expect sales for our Pharmaceutical Products segment to increase significantly in fiscal 2009, primarily as a result of the license agreement previously discussed. This agreement could contribute approximately $350 million in sales, substantially all of which we expect will occur by the end of the second fiscal quarter.

Operating income for the first quarter of fiscal 2009 increased $93 million to $167 million, compared with the first quarter of fiscal 2008. Our operating margin was 50.5% for the quarter ended December 26, 2008, compared with 33.5% for the quarter ended December 28, 2007. The increase in operating income and margin was primarily due to the favorable sales discussed above.

***Medical Supplies***

Net sales for Medical Supplies by groups of products are as follows (dollars in millions):

| | Quarters Ended | | |
|---|---|---|---|
| | December 26, 2008 | December 28, 2007 | Percentage Change Due To Operations |
| Nursing Care Products | $ 132 | $ 119 | 11% |
| Medical Surgical Products | 69 | 67 | 3 |
| Original Equipment Manufacturer Products | 34 | 31 | 10 |
| | $ 235 | $ 217 | 8 |

Net sales for the first quarter of fiscal 2009 increased $18 million, or 8%, to $235 million, compared with $217 million for the first quarter of fiscal 2008. This increase was primarily due to higher sales of nursing care products, driven by increased incontinence sales resulting from new products, particularly quilted and bariatric briefs.

Operating income for the first quarter of fiscal 2009 decreased $7 million to $28 million, compared with $35 million for the first quarter of fiscal 2008. Our operating margin was 11.9% for the quarter ended December 26, 2008, compared with 16.1% for the quarter ended December 28, 2007. The decrease in operating income and margin was primarily due to increased manufacturing costs.

***Corporate***

Corporate expense was $148 million for the first quarter of fiscal 2009, compared with $100 million for the first quarter of fiscal 2008. Corporate expense for the first quarter of fiscal 2009 includes legal charges totaling $36 million for the settlement of two antitrust lawsuits, while corporate expense for fiscal 2008 is net of a $10 million insurance recovery.

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***Non-Operating Items***

*Interest Expense and Interest Income*

During the first quarters of fiscal 2009 and 2008, interest expense was $45 million and $60 million, respectively, and interest income was $7 million and $12 million, respectively. The decrease in interest expense for the first quarter of fiscal 2009, compared with the first quarter of fiscal 2008, resulted from a decrease in our average debt balances.

*Other Income*

During the first quarters of fiscal 2009 and 2008, we recorded other income of $10 million and $180 million, respectively, and corresponding increases to our receivable from Tyco International and Tyco Electronics pursuant to the Tax Sharing Agreement. Other income for fiscal 2008 primarily reflects the indirect effect of adopting FASB Interpretation No. ( FIN ) 48, *Accounting for Uncertainty in Income Taxes.*

*Income Taxes*

Income tax expense was $130 million and $142 million on income from continuing operations before income taxes of $503 million and $587 million for the first quarters of fiscal 2009 and 2008, respectively. This resulted in effective tax rates of 25.8% and 24.2% for the first quarters of fiscal 2009 and 2008, respectively. The increase in the effective tax rate for the first quarter of fiscal 2009, compared with the first quarter of fiscal 2008, was primarily due to a decrease in the non-taxable amounts due under our Tax Sharing Agreement discussed in Other Income above. This increase was partially offset by the benefit recorded as a result of the retroactive reenactment of the U.S. research and development tax credit to January 1, 2008 as well as an increase in earnings in lower tax jurisdictions.

*Discontinued Operations*

During the first quarter of fiscal 2008, we decided to sell our Specialty Chemical business within the Pharmaceutical Products segment, our Retail Products segment and our European Incontinence Products business within the Medical Supplies segment because their products and customer bases were not aligned with our long-term strategic objectives. These businesses are included in discontinued operations for all periods presented.

During the first quarter of fiscal 2008, we determined that the carrying values of the Retail Products segment and the European Incontinence Products business exceeded their respective fair values, net of estimated costs to sell and as a result recorded pre-tax impairment charges totaling $96 million, primarily related to the write down of goodwill in the Retail Products segment. The fair values were based on terms and conditions included or expected to be included in the respective sale agreements. These two businesses were subsequently sold in fiscal 2008. Activity to dispose of the Specialty Chemical business is ongoing.

**Liquidity and Capital Resources**

Factors driving our liquidity position include cash flows generated from operating activities, capital expenditures and investments in businesses and technologies. Our ability to fund our capital needs will be affected by our ongoing ability to generate cash from operations and access to the capital markets. The capital markets worldwide, including the United States, have been severely impacted by credit losses, asset write-downs and failures of some financial institutions. This disruption has impacted credit spreads and pricing on new securities issuances. Our commercial paper program and credit facility are predominately with institutions that, to date, appear to be relatively unaffected by the disruptions. We believe that our cash and other sources of liquidity, primarily our committed credit facility, will be sufficient to allow us to continue to invest in growth opportunities and fund operations for the foreseeable future.

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***Quarter Ended December 26, 2008 Cash Flow Activity***

The net cash provided by continuing operating activities of $287 million was primarily attributable to net income in the first quarter of fiscal 2009, as adjusted for depreciation and amortization and deferred income taxes. This source of cash was partially offset by a net change in working capital of $232 million, driven largely by the annual payout of cash bonuses in the quarter for performance in the prior year and, to a lesser extent, the semi-annual payment of interest on our public debt.

The net cash used in continuing investing activities of $102 million was primarily due to capital expenditures of $88 million. For the full year fiscal 2009, we expect capital expenditures to be in the range of $375 million to $425 million.

The net cash used in continuing financing activities of $171 million was primarily the result of dividend payments of $81 million and net repayments under our commercial paper program of $75 million.

***Capitalization***

Shareholders equity was $7.894 billion, or $15.67 per share, at December 26, 2008, compared with $7.747 billion, or $15.40 per share, at September 26, 2008. This increase was primarily due to net income of $386 million, partially offset by unfavorable changes in foreign currency exchange rates of $256 million.

At December 26, 2008, total debt was $2.913 billion and cash was $1.136 billion, compared with total debt of $3.005 billion and cash of $1.208 billion at September 26, 2008. The $92 million decrease in total debt during the first quarter of fiscal 2009 primarily resulted from a $75 million decrease in our commercial paper program. Total debt as a percentage of total capitalization (total debt and shareholders equity) was 27% at December 26, 2008, compared with 28% at September 26, 2008.

Our credit facility agreement contains a covenant limiting our ratio of debt to earnings before interest, income taxes, depreciation and amortization. In addition, the agreement contains other customary covenants, none of which we consider restrictive to our operations. We are currently in compliance with all of our debt covenants.

***Dividends***

Dividend payments were $81 million during the first quarter of fiscal 2009. On January 27, 2009, the Board of Directors declared a quarterly cash dividend of $0.16 per share to shareholders of record at the close of business on February 6, 2009. The dividend is payable on February 27, 2009.

***Share Repurchase Program***

On January 27, 2009, our Board of Directors authorized a program to purchase up to $300 million of our common shares to partially offset dilution related to equity compensation plans. Shares may be repurchased from time to time, based on market conditions.

**Commitments and Contingencies**

***Legal Proceedings***

We are subject to various legal proceedings and claims, including patent infringement claims, antitrust claims, product liability matters, environmental matters, employment disputes, disputes on agreements and other commercial disputes, as described in our Annual Report on Form 10-K for the fiscal year ended September 26, 2008. We believe that these legal proceedings and claims likely will be resolved over an extended period of time. Although it is not feasible to predict the outcome of these proceedings, based upon our experience, current information and applicable law, we do not expect these proceedings to have a material adverse effect on our financial condition. However, one or more of the proceedings could have a material adverse effect on our results of operations or cash flows for a future period. Note 12 to our financial statements and Part II, Item 1- *Legal Proceedings* provide further information regarding our legal proceedings.

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***Income Taxes***

Our income tax returns are periodically examined by various tax authorities. During 2007, the U.S. Internal Revenue Service ( IRS ) concluded its field examination of certain of our U.S. federal income tax returns for the years 1997 through 2000, during which time we were a subsidiary of Tyco International and issued Revenue Agent s Reports in May and June of 2007, which reflected the IRS s determination of proposed tax adjustments for the periods under audit. Tyco International has appealed certain of the proposed tax adjustments totaling approximately $1 billion. It is our understanding that Tyco International intends to vigorously defend its previously filed tax return positions.

In December 2007, the IRS commenced an examination of our U.S. federal income tax returns for the years 2001 through 2004, during which time we were a subsidiary of Tyco International. In connection with the examination, Tyco International has submitted amendments to its U.S. federal income tax returns for the periods through 2004.

We may be required to make adjustments resulting from examinations and further analysis of our historical filing positions. However, we do not believe any adjustments resulting from the ultimate resolution of these matters will have a material impact on our results of operations, financial condition or cash flows. We may also be required to accrue and pay additional taxes for contingencies not related to us as a result of the Tax Sharing Agreement.

**Off-Balance Sheet Arrangements**

***Guarantees***

Pursuant to the Separation and Distribution Agreement and Tax Sharing Agreement, we entered into certain guarantee commitments and indemnifications with Tyco International and Tyco Electronics. These guarantee arrangements and indemnifications primarily relate to certain contingent tax liabilities; Covidien assumed and is responsible for 42% of these liabilities. Regarding the guarantees, if any of the companies responsible for all or a portion of such liabilities were to default in its payment of costs related to any such liability, we would be responsible for a portion of the defaulting party or parties obligation. These arrangements were valued upon our separation from Tyco International using appraisals and a liability was recorded on our balance sheet.

Each reporting period, we evaluate the potential loss which we believe is probable as a result of our commitments under the Agreements. To the extent such potential loss exceeds the amount recorded on the balance sheet, an adjustment will be required to increase the recorded liabilities to the amount of such potential loss. This guarantee is not amortized because no predictable pattern of performance exists. As a result, the liability generally will be reduced upon the Company s release from its obligations under the Agreements, which may not occur for some years. In addition, as payments are made to indemnified parties, such payments are recorded as reductions to the liability and the impact of such payments is considered in the periodic evaluation of the sufficiency of the liability. At December 26, 2008 and September 26, 2008, a liability of $707 million relating to these guarantees remained on the balance sheet.

**Critical Accounting Policies and Estimates**

The preparation of our financial statements in conformity with GAAP requires management to use judgment in making estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosure of contingent assets and liabilities.

We believe that our accounting policies for revenue recognition, inventories, property, plant and equipment, intangible assets, business combinations, goodwill, contingencies, pension and postretirement benefits, guarantees and income taxes are based on, among other things, judgments and assumptions made by management that include inherent risks and uncertainties. During the quarter ended December 26, 2008, there were no significant changes to these policies or in the underlying accounting assumptions and estimates used in the above critical accounting policies from those disclosed in our annual financial statements and accompanying notes included in our Annual Report on Form 10-K for the fiscal year ended September 26, 2008.

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**Recently Adopted Accounting Pronouncement**

In February 2007, the Financial Accounting Standards Board ( FASB ) issued Statement of Financial Accounting Standards ( SFAS ) No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities.* SFAS No. 159 permits an entity, on a contract-by-contract basis, to make an irrevocable election to account for certain types of financial instruments and warranty and insurance contracts at fair value, rather than at historical cost, with changes in the fair value, whether realized or unrealized, recognized in earnings. We adopted SFAS No. 159 during the first quarter of fiscal 2009, and elected not to apply the fair value option to any financial instruments that were not already recognized at fair value.

In September 2006, the FASB issued SFAS No. 158, *Employers Accounting for Defined Benefit Pension and Other Postretirement Plans an amendment of FASB Statements No. 87, 88, 106 and 132(R).* SFAS No. 158 requires companies to measure plan assets and benefit obligations as of their fiscal year end. We previously used a measurement date of August 31st; however, in the first quarter of fiscal 2009 we transitioned to a measurement date that coincides with our fiscal year end. The adoption of the measurement date provision resulted in a reduction to shareholders equity to reflect the incremental one-month charge from August to September, the amount of which was not significant.

In September 2006, the FASB issued SFAS No. 157, *Fair Value Measurements,* which enhances existing guidance for measuring assets and liabilities at fair value. SFAS No. 157 defines fair value, establishes a framework for measuring fair value and expands disclosure about fair value measurements. We adopted SFAS No. 157 during the first quarter of fiscal 2009, except with respect to certain non-financial assets and liabilities, for which the effective date is fiscal 2010. The adoption of SFAS No. 157 did not have an impact our results of operations, financial condition or cash flows. The disclosures required by SFAS No. 157 are presented in Note 10 to our financial statements.

**Recently Issued Accounting Pronouncements**

In December 2008, the FASB issued Staff Position ( FSP ) 132(R)-1, *Employers Disclosures about Postretirement Benefit Plan Assets*. This FSP requires enhanced disclosures about plan assets of a defined benefit pension or other postretirement plan, with the intent to provide users of financial statements with an understanding of (a) how investment allocation decisions are made, (b) the major categories of plan assets, (c) the inputs and valuation techniques used to measure the fair value of plan assets, (d) the effect of fair value measurements using significant unobservable inputs on changes in plan assets for the period and (e) significant concentrations of risk within plan assets. These disclosures are required for us in fiscal 2010.

In March 2008, the FASB issued SFAS No. 161, *Disclosures about Derivative Instruments and Hedging Activities*. SFAS No. 161 requires enhanced disclosures about an entity s derivative and hedging activities, with the intent to provide users of financial statements with an enhanced understanding of (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities* and its related interpretations and (c) how derivative instruments and related hedged items affect an entity s financial position, financial performance and cash flows. The enhanced disclosures set forth in SFAS No. 161 are effective for us in the second quarter of fiscal 2009.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), *Business Combinations* ( SFAS No. 141(R) ). SFAS No. 141(R) expands the definition of a business combination and requires acquisitions to be accounted for at fair value, including any interests retained by the seller. These fair value provisions will be applied to contingent consideration, in-process research and development and acquisition contingencies. Purchase accounting adjustments will be reflected during the period in which an acquisition was originally recorded. Additionally, the new standard requires transaction costs and restructuring charges to be expensed. Finally, post-acquisition changes in deferred tax asset valuation allowances and acquired income tax uncertainties will be recognized as income tax expense or benefit. SFAS No. 141(R) is effective for us for acquisitions closing during and subsequent to the first quarter of fiscal 2010.

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**FORWARD-LOOKING STATEMENTS**

We have made forward-looking statements in this report that are based on our management s beliefs and assumptions and on information currently available to our management. Forward-looking statements include information concerning our possible or assumed future results of operations, business strategies, financing plans, competitive position, potential growth opportunities, potential operating performance improvements, benefits resulting from our separation from Tyco International, the effects of competition and the effects of future legislation or regulations. Forward-looking statements include all statements that are not historical facts and can be identified by the use of forward-looking terminology such as the words believe, expect, plan, intend, anticipate, estimate, predict, potential, continue, may, should c terms or similar expressions.

Forward-looking statements involve risks, uncertainties and assumptions. Actual results may differ materially from those expressed in these forward-looking statements. You should not put undue reliance on any forward-looking statements.

The risk factors discussed in Risk Factors in our Annual Report on Form 10-K for the fiscal year ended September 26, 2008 could cause our results to differ materially from those expressed in forward-looking statements. There may be other risks and uncertainties that we are unable to predict at this time or that we currently do not expect to have a material adverse effect on our business.

**Item 3.** ***Quantitative and Qualitative Disclosures about Market Risk***

We use forward currency exchange contracts on accounts and notes receivable, accounts payable, intercompany loan balances and forecasted transactions denominated in certain foreign currencies. Based on a sensitivity analysis of our existing forward contracts outstanding at December 26, 2008, a 10% appreciation of the U.S. dollar from the December 26, 2008 market rates would decrease the unrealized value of our forward contracts on our balance sheet by $35 million, while a 10% depreciation of the U.S. dollar would increase the unrealized value of forward contracts on our balance sheet by $43 million. However, such gains or losses on these contracts would ultimately be offset by the gains or losses on the revaluation or settlement of the underlying transactions.

We utilize established risk management policies and procedures in executing derivative financial instrument transactions. Although the instruments may not necessarily be designated as accounting hedges, we do not execute transactions or hold derivative financial instruments for trading or speculative purposes. Counterparties to derivative financial instruments are limited to major financial institutions with at least an A/A2 long-term debt rating. There is no significant concentration of exposures with any one counterparty.

**Item 4.** ***Controls and Procedures***

*Disclosure Controls and Procedures*

We maintain disclosure controls and procedures designed to ensure that information required to be disclosed in reports filed under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the specified time periods, and that such information is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures (as defined in the Securities Exchange Act of 1934 Rules 13a-15(e) or 15d-15(e)) as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of

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that date, our disclosure controls and procedures were not effective at the reasonable assurance level because of the identification of a material weakness in our internal control over financial reporting discussed below, which we view as an integral part of our disclosure controls and procedures.

*Internal Control Over Financial Reporting*

As discussed in our Annual Report on Form 10-K for the fiscal year ended September 26, 2008, we identified a material weakness in our internal controls over accounting for income taxes. The control deficiencies identified stem from our reliance on the processes inherited from Tyco International, our former parent, for periods following our separation from Tyco International, which themselves contained material weaknesses. We are working to develop sustainable processes of our own and have made progress towards completion of this effort; however, the complexity of our separation from Tyco International, including related tax sharing agreement accounting, has made it difficult for us to quickly design, implement and test sustainable processes adequate to remediate the material weaknesses present. As a result of these deficiencies, it is reasonably possible that internal controls over financial reporting may not have prevented or detected errors that could have been material, either individually or in the aggregate.

We are continuing to build our tax accounting resources and implement reconciliation and review processes in response to this weakness. We are also addressing weaknesses relating to our reconciliation process for determining the tax bases of assets and liabilities used in the computation of deferred income taxes, including the impact of amended returns on such tax bases. While we continue to develop and implement new control processes and procedures to address these weaknesses, we have determined that further improvements are required in our tax accounting processes before we can consider the material weakness remediated.

*Changes in Internal Control Over Financial Reporting*

Other than the remediation efforts described below, there have been no changes in our internal control over financial reporting that have materially affected, or are likely to materially affect, our internal control over financial reporting.

We continue to undertake steps to strengthen our controls over accounting for income taxes, including:

- Increasing oversight by our management in the calculation and reporting of certain tax balances of our non-U.S. operations;
- Enhancing policies and procedures relating to account reconciliation and analysis;
- Augmenting our tax accounting resources;
- Increasing communication to information providers for tax jurisdiction specific information; and
- Strengthening communication and information flows between the tax department and the controllers group.

Our material weaknesses in controls over accounting for income taxes will not be considered remediated until new internal controls are operational for a period of time and are tested, and management and our independent registered public accounting firm conclude that these controls are operating effectively. Due to the nature of and time necessary to effectively remediate the material weaknesses identified to date, we have concluded that a material weakness in our internal control over financial reporting for accounting for income taxes continues to exist as of December 26, 2008.

We plan to implement further improvements to achieve appropriate levels of controls, reliability and sustainability in this area. We have ongoing initiatives to standardize, consolidate and upgrade various financial operating systems and eliminate many of the manual and redundant tasks previously performed under older systems or processes. These changes will be implemented in stages over the next several years.

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## PART II. OTHER INFORMATION

**Item 1.** ***Legal Proceedings***

We are subject to various legal proceedings and claims, including patent infringement claims, antitrust claims, product liability matters, environmental matters, employment disputes, disputes on agreements and other commercial disputes, as described in our Annual Report on form 10-K for the fiscal year ended September 26, 2008. We believe that these legal proceedings and claims likely will be resolved over an extended period of time. Although it is not feasible to predict the outcome of these proceedings, based upon our experience, current information and applicable law, we do not expect these proceedings to have a material adverse effect on our financial condition. However, one or more of the proceedings could have a material adverse effect on our results of operations or cash flows for a future period. The following discussion represents material developments during the quarter ended December 26, 2008 related to previously described legal proceedings.

*Antitrust Litigation*

*Daniels Sharpsmart, Inc. v. Tyco International (US) Inc., et al*. is a complaint filed against us, another manufacturer and three GPOs in the United States District Court for the Eastern District of Texas on August 31, 2005, seeking injunctive relief and unspecified monetary damages, including treble damages. The complaint alleges that we monopolized or attempted to monopolize the market for sharps containers and that we and the other defendants conspired or acted to exclude Daniels from the market for sharps containers in violation of federal and state antitrust laws. Daniels also asserts claims under the Lanham Act and for business disparagement, common law conspiracy and tortious interference with business relationships. In December 2008, we reached an agreement in principle with Daniels pursuant to which we agreed to pay Daniels $32.5 million to resolve all claims in this case. Accordingly, during the first quarter of fiscal 2009, we recorded a charge to selling, general and administrative expenses for this settlement. On January 15, 2009, we entered into a Settlement Agreement and Release of Claims documenting this agreement in principle.

*Rochester Medical Corporation, Inc. v. C.R. Bard, Inc., et al*. is a complaint filed against us, another manufacturer and two group purchasing organizations in the United States District Court for the Eastern District of Texas on March 15, 2004, seeking injunctive relief and damages. The complaint alleges that we and the other defendants conspired or acted to exclude Rochester Medical from markets for urological products in violation of federal and state antitrust laws. Rochester Medical also asserts claims under the Lanham Act and for business disparagement, common law conspiracy and tortious interference with business relationships. In December 2008, we entered into an agreement in principle with Rochester Medical pursuant to which we agreed to pay Rochester Medical $3.5 million to resolve all claims in this case. Accordingly, during the first quarter of fiscal 2009, we recorded a charge to selling, general and administrative expenses for this settlement. On January 15, 2009, we entered into a Settlement Agreement and Release of Claims documenting this agreement in principle.

*Environmental Proceedings*

As previously disclosed, we are involved in various stages of investigation and cleanup related to environmental remediation matters at a number of sites. One of our subsidiaries, Mallinckrodt LLC, owned and operated a chemical manufacturing facility located in Orrington, Maine from 1967 until 1982. This facility was sold in 1982 to Hanlin Group, Inc., who then sued Mallinckrodt in 1989 alleging that Mallinckrodt had violated various environmental laws during its operation of the facility. These alleged claims were settled in 1991. Under the settlement agreement, Mallinckrodt agreed to pay certain specific costs for the completion of an environmental site investigation required by the EPA and the Maine Department of Environmental Protection (MDEP). Based on the site investigation, Mallinckrodt completed a Corrective Measures Study (CMS) plan and identified a preferred remedial alternative which was submitted to the EPA and MDEP in 2004. MDEP disagreed with this alternative and served a compliance order on Mallinckrodt LLC and United States Surgical Corp in December 2008. The compliance order included a directive to remove a significant volume of soils at the site.

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We disagree with this approach and are vigorously challenging both the process of issuing the compliance order and the ultimate remedy selection described in the order in both Federal and State court. The cost of full compliance with MDEP s order has not been estimated and is not included in the estimate described below due to the uncertainties in the pending litigation. Mallinckrodt is the only remaining party responsible for remediation at this site.

The ultimate cost of site cleanup and remediation at any of the Company s owned or formerly owned sites is difficult to predict, given the uncertainties regarding the extent of the required cleanup, the interpretation of applicable laws and regulations and alternative cleanup methods. As of December 26, 2008, we concluded that it was probable that we would incur remedial costs in the range of $113 million to $252 million for the cleanup of all known sites for which the costs are currently estimable, including some costs related to the Orrington, Maine site.

**Item 1A.** ***Risk Factors***

There have been no material changes to the risk factors disclosed in our Annual Report on Form 10-K for the fiscal year ended September 26, 2008. Please refer to the Risks Factors section in our Annual Report for a discussion of risks to which our business, financial condition, results of operations and cash flows are subject.

**Item 2.** ***Unregistered Sales of Equity Securities and Use of Proceeds***

None.

**Item 3.** ***Defaults Upon Senior Securities***

None.

**Item 4.** ***Submission of Matters to a Vote of Security Holders***

None.

**Item 5.** ***Other Information***

None.

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**Item 6.** ***Exhibits***

| Exhibit Number | Exhibit |
|---|---|
| 10.1 | FY09 Grant U.S. Option Terms and Conditions (incorporated by reference to Exhibit 10.1 to the Registrant s Current Report on Form 8-K filed on November 25, 2008). |
| 10.2 | FY09 Grant U.S. Restricted Stock Unit Terms and Conditions (incorporated by reference to Exhibit 10.2 to the Registrant s Current Report on Form 8-K filed on November 25, 2008). |
| 10.3 | FY09 Grant Performance Share Unit Terms and Conditions (incorporated by reference to Exhibit 10.3 to the Registrant s Current Report on Form 8-K filed on November 25, 2008). |
| 10.4 | Form of Non-Competition, Non-Solicitation, and Confidentiality Agreement for executive officers and certain key employees, other than Richard J. Meelia (filed herewith). |
| 10.5 | Amendment and Assignment Agreement dated as of November 21, 2008 to the Employment Agreement with Richard J. Meelia (filed herewith). |
| 10.6 | Amended and Restated Covidien Severance Plan for U.S. Officers and Executives (filed herewith). |
| 10.7 | Amended and Restated Covidien Change in Control Severance Plan for Certain U.S. Officers and Executives (filed herewith). |
| 31.1 | Certification by the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith). |
| 31.2 | Certification by the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith). |
| 32.1 | Certification by the Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith). |

(1) Confidential treatment requested as to certain terms in this agreement; these terms have been omitted from this filing and filed separately with the Securities and Exchange Commission.

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**SIGNATURES**

Pursuant to the requirements of 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.

**COVIDIEN LTD.**

By: /s/ Richard G. Brown, Jr.
**Richard G. Brown, Jr.**

**Vice President, Chief Accounting Officer**

**and Corporate Controller**

/s/ Charles J. Dockendorff
**Charles J. Dockendorff**

**Executive Vice President and Chief Financial Officer**

**(Principal Financial Officer)**

Date: January 29, 2009