

**EXHIBIT C**

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is entered into this \_\_\_ day of July \_\_, 2015 by and between \_\_\_\_\_, a \_\_\_\_\_ ("Buyer"), and Gulf Packaging, Inc., a Texas corporation ("Seller"). Buyer and Seller are each referred to herein individually as a "Party," and collectively as the "Parties."

### RECITALS:

A. Seller is engaged in the business of distributing packaging equipment and materials (the "Business").

B. On April 29, 2015, Seller voluntarily commenced a case under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois, which is being administered under Case No. 15-15249 (PSH) (the "Chapter 11 Case").

C. The Parties desire that Buyer acquire and purchase from Seller, and that Seller sell, convey transfer and assign to Buyer, certain assets of Seller used in the operation of the Business, on the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the premises and of their mutual covenants and agreements set forth in this Agreement, the Parties do hereby agree as follows:

### ARTICLE I.

#### DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions.

Accounting terms used and not otherwise defined herein shall have the meanings given to them under GAAP. When used in this Agreement, the following terms in all of their tenses and cases shall have the meanings assigned to them below or elsewhere in this Agreement as indicated below:

"Acquisition Proposal" means a proposal relating to disposition of the Purchased Assets pursuant to one or more transactions.

"Affiliate" of any Person means any Person directly or indirectly controlling, controlled by or under common control with any such Person and any shareholder, officer or director of such Person.

"Agreement" is defined in the Preamble.

"Allocation" is defined in Section 3.3.

“Alternative Transaction” means (a) a transaction contemplated by an Acquisition Proposal from a third party, or (b) a plan of reorganization of Seller not involving the sale of the Purchased Assets to Buyer.

“Assignment and Assumption Agreement” means the Assignment and Assumption Agreement executed by Buyer and Seller, substantially in the form attached hereto as Exhibit B.

“Bankruptcy Code” means Title 11 of the United States Code, as amended, 11 U.S.C. §§ 101, *et. seq.*

“Bankruptcy Court” means the United States Bankruptcy court for the Northern District of Illinois, or such other court exercising competent jurisdiction over the Chapter 11 Case involving Seller.

“Bid Procedures Order” means the Bankruptcy Court Order (a) Approve Comprehensive Sale Process, (b) Approve Bidding Procedures and Certain Bid Protections, (c) Schedule a Sale Hearing, (d) Approve Form and Manner of Notice Related Thereto, (e) Authorize Sale Free and Clear of All Liens, Claims, Interests and Encumbrances, (f) Authorize Assumption and Assignment of Certain Executory Contracts and Unexpired Leases and Proposed Cure Amounts with Respect Thereto and (g) Grant Related Relief, signed on \_\_\_\_\_, 2015.

“Bill of Sale” means a Bill of Sale executed by Seller, substantially in the form attached hereto as Exhibit A.

“Business” is defined in the Recitals.

“Buyer” is defined in the Preamble.

“Cash Deposit” is defined in Section 3.2(a).

“Chapter 11 Case” is defined in the Recitals.

“Closing” and “Closing Date” are defined in Section 8.1.

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Contemplated Transactions” means all of the transactions contemplated by this Agreement.

“Contract” means any written commitment, understanding, instrument, lease, pledge, mortgage, indenture, license, agreement, purchase or sale order, contract, promise or similar arrangement evidencing or creating any legally binding obligation.

“GAAP” means generally accepted accounting principles, as in effect in the United States from time to time and consistently applied.

“Governmental Authority” means any foreign, federal, state, regional or local authority, agency, body, court or instrumentality, regulatory or otherwise, which, in whole or in part, was formed by or operates under the auspices of any foreign, federal, state, regional or local government.

“Law” means any federal, state, regional, local or foreign law, rule, statute, ordinance, rule, Order or regulation.

“Lien” means any lien, charge, covenant, condition, easement, adverse claim, demand, encumbrance, limitation, security interest, option, pledge, or any other title defect or restriction of any kind.

“Order” shall mean any order, judgment, injunction, award, decree or writ of any Governmental Authority.

“Party” and “Parties” are defined in the Preamble.

“Periodic Taxes” is defined in Section 9.3.

“Person” means any individual, corporation, partnership, limited liability company, association or any other entity or organization.

“Proration Periods” is defined in Section 9.3.

“Purchase Price” is defined in Section 3.1.

“Purchased Assets” is defined in Section 2.1.

“Sale Date” means the date that the Sale Order is entered by the Bankruptcy Court.

“Sale Order” means the order of the Bankruptcy Court, in form and substance reasonably satisfactory to Buyer and Seller, to be issued by the Bankruptcy Court pursuant to Sections 363 and 365, and to the extent possible Section 1146(a), of the Bankruptcy Code in a form substantially (a) approving this Agreement and the Contemplated Transactions, (b) approving the sale of the Purchased Assets to Buyer free and clear of all liens, claims and encumbrances pursuant to Section 363(f) of the Bankruptcy Code, (c) approving the assumption and assignment to Buyer of any Assumed Liabilities and (d) finding that Buyer is a good faith purchaser entitled to the protections of Section 363(m) of the Bankruptcy Code.

“Seller” is defined in the Preamble.

“Settlement Statement” is defined in Section 3.3.

“Tax” means any tax, charge or assessment by or liability to any Governmental Authority, including, but not limited to, any deficiency, interest or penalty.

“Tax Returns” means any return, report or declaration filed with or submitted to any Governmental Authority in connection with the assessment, collection or payment of any Tax.

“Termination Fee” is defined in Section 8.3(d).

“Transaction Taxes” is defined in Section 9.2.

1.2 Interpretation. When a reference is made in this Agreement to a Section, Schedule or Exhibit, such reference shall be to a Section, Schedule or Exhibit of this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words “included,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the phrase “without limitation.” When used in this Agreement, the word “primarily” shall be deemed to be followed by the phrase “or exclusively.” Unless otherwise indicated, all references to dollars refer to United States dollars. The Parties acknowledge that both Parties have participated in the drafting and preparation of this Agreement and agree that any rule of construction to the effect that ambiguities are to be construed against the drafting party shall not be applied to the construction or interpretation of this Agreement.

## ARTICLE II

### PURCHASE AND SALE OF ASSETS

2.1 Purchased Assets. Subject to the terms and conditions of this Agreement and pursuant to Section 363 of the Bankruptcy Code, effective as of the Closing, Seller shall sell, convey, transfer, assign and deliver to Buyer, free and clear of all Liens, and Buyer shall purchase, all right, title and interest in and to the assets of Seller described on Schedule 2.1 hereto (collectively, the “Purchased Assets”).

2.2 Assumed Contracts. Subject to the terms and conditions of this Agreement, effective as of the Closing, Seller shall assign all of its rights, and Buyer shall assume all of Seller’s obligations, under the contracts listed on Schedule 2.2 hereto (the “Assumed Liabilities”).

2.3 Retained Assets. Notwithstanding anything to the contrary in this Agreement, Seller shall not sell, convey, transfer, assign or deliver, and Buyer shall not purchase or acquire any assets of Seller other than the Purchased Assets.

2.4 Deemed Consents and Cures. For all purposes of this Agreement (including all representations and warranties of Seller contained herein), Seller shall be deemed to have

obtained all required consents, as applicable, in respect of the assignment of any Purchased Asset and to have cured all defaults thereunder if, and to the extent that, pursuant to the Sale Order, Seller is authorized to assign any Purchased Assets to Buyer pursuant to Section 365 of the Bankruptcy Code.

### ARTICLE III

#### CONSIDERATION

3.1 Purchase Price. The total consideration to be paid by Buyer to Seller for the Purchased Assets is (a) \$\_\_\_\_\_ (the "Purchase Price") and (b) the assumption by Buyer of the Assumed Liabilities. Prior to or on the Closing Date, Buyer and Seller shall jointly conduct a reconciliation of the existence of the Purchased Assets. To the extent any Purchased Asset is not available to be conveyed to Buyer on the Closing Date, the Purchase Price shall be adjusted pursuant to the procedures set forth on Schedule 3.1; provided, however, that no adjustment shall be made due to the condition of any of the Purchased Assets. Notwithstanding anything herein to the contrary, in no event shall any adjustment result in the Purchase Price attributable to any category or item of Purchased Assets being zero, or less.

3.2 Payment. Buyer shall pay the Purchase Price to Seller as follows:

(a) The cash deposit required by the Bid Procedures Order in the amount of \$\_\_\_\_\_ (the "Cash Deposit") is to be held by Seller against payment of the Purchase Price and as security for the performance by Buyer of its obligations under this Agreement. The Cash Deposit shall be applied to the Purchase Price as set forth in Section 6.2.4 hereof.

(b) The Purchase Price, as it may be adjusted, less the Cash Deposit, will be paid at the Closing by wire transfer of immediately available funds.

3.3 Settlement Statement; Allocation of Purchase Price. Prior to or on the Closing Date, the Parties shall agree upon a settlement statement setting forth the calculation of the Purchase Price as of the Sale Date (the "Settlement Statement"). Prior to or on the Closing Date, the Parties shall agree to the allocation of the appropriate portions of the Purchase Price, Assumed Liabilities and other relevant items among the Purchased Assets, in accordance with Code Section 1060 and the Treasury regulations promulgated thereunder and any comparable provisions of state or local law, as appropriate (the "Allocation"), which Allocation shall be binding upon the Parties and which will be attached to this Agreement as Schedule 3.3. The Parties and their respective Affiliates shall report, act and file Tax Returns (including, but not limited to Internal Revenue Service Form 8594) in all respects and for all purposes consistent with such Allocation. Each Party shall furnish the other Party with such cooperation and existing information as is reasonably requested by the other Party in connection with the preparation of the Allocation described in this Section 3.3. The Parties covenant and agree that (a) neither Buyer nor Seller shall assert that this Section 3.3 was not separately bargained for at arm's length and in good faith, and (b) neither Buyer nor Seller will take any position before any

Governmental Authority, in any judicial proceeding, or in any Tax Return that is in any way inconsistent with such Allocation unless otherwise required by Law.

3.4 Alternative Transaction Provisions. Seller shall be entitled to consider proposals for Alternative Transactions from third parties consistent with its fiduciary obligations as a debtor in possession in the Chapter 11 Case.

3.5 Risk of Loss. Notwithstanding anything to the contrary herein, Buyer shall assume all risk of loss with respect to the Purchased Assets and shall become fully obligated with respect to the Assumed Liabilities on and as of the Sale Date.

#### ARTICLE IV

#### REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer as follows:

4.1 Organization and Power of Seller. Seller is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Texas. Seller has requisite corporate power to: (a) own, lease and operate the Purchased Assets and carry on the Business as and where such assets are now owned or leased and as the Business is presently being conducted; and (b) execute, deliver and perform this Agreement and all other agreements and documents to be executed and delivered by it in connection herewith, subject to and after giving effect to the approval of the Bankruptcy Court (including satisfying any conditions imposed by the Bankruptcy Court) and compliance with all requirements of the Bankruptcy Code.

4.2 Enforceability. All requisite corporate action to approve, execute, deliver and perform this Agreement has been taken by Seller. This Agreement and each other agreement and document delivered by Seller in connection herewith have been duly executed and delivered by Seller, subject to entry of the Sale Order by the Bankruptcy Court, constitute the binding obligation of Seller, enforceable in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and other laws affecting creditors' rights generally and by principles of equity.

4.3 No Implied or Other Representations or Warranties. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, IT IS THE EXPLICIT INTENT OF EACH PARTY HERETO THAT SELLER AND ANY OF ITS AFFILIATES ARE NOT MAKING ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, BEYOND THOSE EXPRESSLY GIVEN IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR REPRESENTATION AS TO CONDITION, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE AS TO ANY OF THE ASSETS, AND IT IS UNDERSTOOD THAT EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, BUYER TAKES ALL OF SUCH PROPERTIES AND ASSETS ON AN "AS IS" AND "WHERE IS" BASIS.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller as follows:

5.1 Organization and Power. Buyer is a \_\_\_\_\_ duly organized, validly existing and in good standing under the laws of the State of \_\_\_\_\_. Buyer has full power to execute, deliver and perform this Agreement and all other agreements and documents to be executed and delivered by it in connection herewith.

5.2 Enforceability. All requisite action to approve, execute, deliver and perform this Agreement and each other agreement and document delivered by Buyer in connection herewith has been taken by Buyer. This Agreement and each other agreement and document delivered by Buyer in connection herewith have been duly executed and delivered by Buyer and constitute the binding obligations of Buyer enforceable in accordance with their respective terms.

5.3 Consents. Except for the approval of the Bankruptcy Court, no approval or consent of, or filing with, any Person or Governmental Authority is required in connection with the transactions contemplated hereby or the execution, delivery or performance by Buyer of this Agreement or any other agreement or document delivered by or on behalf of Buyer in connection herewith.

5.4 No Conflicts. No action taken by or on behalf of Buyer in connection herewith, including, but not limited to, the execution, delivery and performance of this Agreement, and each other agreement and document delivered by it in connection herewith, and consummation of the Contemplated Transactions, (a) gives rise to a right of termination or acceleration under any Contract to which Buyer is a party or by which Buyer is bound; (b) conflicts with or violates (i) any Law; (ii) Buyer's organizational documents; or (iii) any Order to which Buyer is subject; or (c) constitutes an event which, after notice or lapse of time or both, could result in any of the foregoing.

5.5 Litigation. Except for the required approval of the Bankruptcy Court to the consummation of the Contemplated Transactions, no litigation or administrative proceeding is pending, or to the knowledge of Buyer, threatened against Buyer which could prevent Buyer from entering into, or performing its obligations under, this Agreement.

5.6 Brokers or Finders. Except as set forth on Schedule 5.6, no Person is or will become entitled, by reason of any agreement or arrangement entered into or made by or on behalf of Buyer to receive any commission, brokerage, finder's fee or other similar compensation arrangement in connection with the consummation of the Contemplated Transactions.

5.7 Financing. Buyer has adequate financing from internally-generated sources and has adequate cash on hand, or will obtain adequate financing on or prior to the Sale Date, and



will continue to have adequate financing on the Closing Date, to enable it to fulfill its obligations under this Agreement. Buyer acknowledges and agrees that Buyer's obligations under this agreement are not contingent on obtaining adequate financing.

5.8 Buyer's Investigation. Buyer represents that it is a sophisticated entity that was advised by knowledgeable counsel and financial advisors and hereby acknowledges that it has conducted an investigation of the Purchased Assets. Notwithstanding anything in this Agreement to the contrary, Buyer acknowledges that it is accepting the Purchased Assets in their present condition and locations and with their present operating capabilities. Buyer acknowledges that Seller make no warranty, express or implied, as to the condition of the Purchased Assets except as expressly set forth in this Agreement. Buyer has not relied upon, and Seller shall not be liable for or bound in any manner by, any express or implied verbal or written information, warranties, guarantees, promises, statements, inducements, representations or opinions pertaining to the Business or the Purchased Assets, except as may be contained in this Agreement. Buyer has inspected, or waived its right to inspect, the Purchased Assets for all purposes and satisfied itself as to their condition. Buyer is relying solely upon its own inspection of the Purchased Assets, and Buyer shall accept all of the same in their as is, where is, condition. Buyer acknowledges that the representations and warranties of Seller contained in this Agreement constitute the sole and exclusive representations and warranties of Seller to Buyer in connection with this Agreement and the Contemplated Transactions, and Buyer acknowledges that all other representations and warranties are specifically disclaimed and may not be relied upon or serve as a basis for a claim against Seller or its Affiliates.

## ARTICLE VI

### CONDITIONS TO CLOSING

6.1 Conditions to Buyer's Obligations. The obligation of Buyer to consummate the Contemplated Transactions on the Closing Date is subject to the fulfillment on or prior to the Sale Date of the following conditions, any one or more of which may be waived by Buyer:

6.1.1 Representations and Covenants. Each of the representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects on and as of the Sale Date with the same effect as though made on the Sale Date. Seller shall have performed and complied in all material respects with all of the covenants and agreements required by this Agreement to be performed or complied with by Seller on or prior to the Sale Date. Seller shall have delivered to Buyer a certificate, dated the Sale Date and signed by an authorized officer of Seller, to the foregoing effect and stating that all conditions to Buyer's obligations hereunder, to the extent required to be performed by Seller, have been satisfied or waived.

6.1.2 No Orders. On the Sale Date, there shall be no Order of any nature which directs that the Contemplated Transactions, in whole or in part, not be consummated.

6.1.3 Bankruptcy Court Approval. The Sale Order shall have been entered by the Bankruptcy Court, and such order shall be in form and substance reasonably satisfactory to Buyer. At a minimum, the Sale Order shall (a) provide that the Purchased Assets are being sold to Buyer free and clear of all liens, claims and encumbrances pursuant to Section 363(f) of the Bankruptcy Code, and (b) find that Buyer is a good faith purchaser entitled to the protection of Section 363(m) of the Bankruptcy Code.

6.1.4 Closing Deliveries. Seller shall have delivered, or caused to be delivered, to Buyer the following documents, duly executed by Seller (where appropriate):

(a) Transfer Instruments. The Bill of Sale, the Assignment and Assumption Agreement, and such other transfer instruments in form and substance reasonably satisfactory to Buyer and signed by Seller, as shall be required to enable Buyer to acquire the Purchased Assets and cause Buyer to assume the Assumed Liabilities;

(b) Officer's Certificate. The officer's certificates contemplated by Section 6.1.1;

(c) Sale Order. A copy of the Sale Order;

(d) Settlement Statement. A copy of the Settlement Statement; and

(e) Other. Such other document(s) or instruments required to be delivered by Seller to Buyer hereunder.

6.2 Conditions to Seller' Obligations. The obligation of Seller to consummate the Contemplated Transactions on the Closing Date is subject to the fulfillment on or prior to the Sale Date of the following conditions, any one or more of which may be waived by Seller:

6.2.1 Representations and Covenants. Each of the representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects on and as of the Sale Date with the same effect as though made on the Sale Date. Buyer shall have performed and complied in all material respects with all of the covenants and agreements required by this Agreement to be performed or complied with by Buyer on or prior to the Sale Date. Buyer shall have delivered to Seller a certificate, dated the Sale Date and signed by an authorized officer of Buyer, to the foregoing effect and stating that all conditions to Seller's obligations hereunder, to the extent required to be performed by Buyer, have been satisfied or waived.

6.2.2 No Orders. On the Sale Date, there shall be no Order of any nature which directs that the Contemplated Transactions, in whole or in part, not be consummated.

6.2.3 Bankruptcy Court Approval. The Sale Order shall have been entered by the Bankruptcy Court, and such order shall be in form and substance reasonably satisfactory to Buyer and Seller. At a minimum, the Sale Order shall (a) provide that the Purchased Assets are

being sold to Buyer free and clear of all liens, claims and encumbrances pursuant to Section 363(f) of the Bankruptcy Code, and (b) find that Buyer is a good faith purchaser entitled to the protection of Section 363(m) of the Bankruptcy Code.

6.2.4 Purchase Price. Buyer shall have delivered the Purchase Price to Seller as specified in Article III. The Cash Deposit shall be applied to such amount at Closing.

6.2.5 Closing Deliveries. Buyer shall have delivered to, or caused to be delivered, to Seller the following documents, duly executed by Buyer (where appropriate):

(a) Officer's Certificate. The officer's certificate contemplated by Section 6.2.1;

(b) Assignment and Assumption Agreement. The Assignment and Assumption Agreement; and

(c) Other. Each other document required to be delivered by Buyer to Seller hereunder.

## ARTICLE VII

### COVENANTS

7.1 Effectiveness of Representations and Warranties. Subject to the restrictions set forth in the Bankruptcy Code or Orders of the Bankruptcy Court, from the date hereof through the Sale Date, Seller shall use its reasonable efforts to conduct the Business in such a manner so that the representations and warranties contained in Article IV shall continue to be true and correct on and as of the Sale Date as if made on and as of the Sale Date.

7.2 Conduct of Business. Except to the extent required by the Bankruptcy Court, Seller shall not, with respect to the Business, except as otherwise permitted by the Bankruptcy Code or an Order of the Bankruptcy Court:

(a) permit any of the Purchased Assets to be subjected to any additional Lien, other than Liens that will be released as of the Closing; or

(b) sell or dispose of any Purchased Assets other in the ordinary course of the operation of the Business.

7.3 Access. From the date hereof until the Closing Date, Seller shall provide Buyer and its representatives reasonable access during normal business hours to Seller's personnel, facilities and all books and records and such other information and Persons relating to the Business as Buyer may reasonably request.

7.4 Bankruptcy Filings. From the date hereof until the Closing Date, Seller shall promptly deliver to Buyer's counsel copies of all pleadings, motions, notices, statements, schedules, applications, reports and other papers which relate to or may affect this Agreement or the Purchased Assets that Seller files in the Chapter 11 Case.

7.5 Publicity. Copies of the text of all public announcements (whether pre-Closing or post-Closing) relating to this Agreement or the Contemplated Transactions will be provided to the other Party prior to public release of the disclosure to be made.

7.6 Expenses. Except to the extent otherwise specifically provided in this Agreement, each Party shall bear its respective expenses incurred in connection with the preparation, execution and performance of this Agreement and the transactions contemplated hereby, including all fees and expenses of agents, representatives, counsel and accountants. Buyer shall be solely responsible for all fees and expenses incurred or otherwise payable to all Persons listed on Schedule 5.6.

7.7 Further Assurances.

7.7.1 Seller agrees that, at any time and from time to time after the Closing, it will, upon the request of Buyer, do all such further acts as may be reasonably required to further transfer and assign to Buyer any of the Purchased Assets, or to vest in Buyer good and marketable title to the Purchased Assets.

7.7.2 Buyer agrees that, at any time and from time to time after the Closing, it will, upon the request of Seller, do all such further acts as may be reasonably required to cause Buyer to assume the Assumed Liabilities in accordance with this Agreement and as may otherwise be appropriate to carry out the transactions contemplated by this Agreement.

7.8 Accounts Receivable. Except to the extent such account receivable constitutes part of the Purchased Assets, if Buyer receives a payment from an account debtor for which there is an outstanding account receivable both before and after the Sale Date, such payment shall be applied to the oldest outstanding invoice(s), the payment of which the account debtor is not disputing. In the event a customer claims that it is disputing an account receivable, Buyer agrees: (a) to promptly inform Seller of such dispute and forward to Seller any information or documents it has in connection therewith; and (b) to cooperate reasonably with Seller in its efforts to resolve such dispute in such manner as Seller shall reasonably request in light of Seller's goal to collect the disputed receivables. On the 30<sup>th</sup> day after the Sale Date, and each 30<sup>th</sup> day thereafter, Buyer shall deliver to Seller all payments collected from each account debtor with respect to the accounts receivable of Seller, along with all documentation with respect thereto that Seller reasonably requests.

7.9 Vehicles. Buyer agrees to use its commercially reasonable efforts to file promptly the appropriate vehicle title applications and registrations to change the name of the titled owner on each vehicle title certificate and change the motor vehicle registration (with respect to license plate information) on each vehicle being transferred to Buyer from Seller pursuant to this

Agreement. Buyer agrees that it shall remove and destroy Seller's existing license plates from all vehicles received upon the earlier of receipt of new license plates or 60 days following Closing.

## ARTICLE VIII

### CLOSING AND TERMINATION

8.1 Closing. The closing (the "Closing") of the Contemplated Transactions shall be held on or within fifteen days after the Sale Date (or such other date as the Parties may agree in writing), at the offices of Gray Reed & McGraw, PC, 1601 Elm Street, Dallas, Texas 75201, at 10:00 a.m., Dallas, Texas time. The date on which the Closing occurs is referred to as the "Closing Date." The transfers and deliveries described in Article VI shall be mutually interdependent and regarded as occurring simultaneously, and no such transfer or delivery shall become effective until all the other transfers and deliveries provided for in Article VI have also been made. Seller and Buyer shall meet on the date preceding the Closing Date at the offices of Gray Reed & McGraw, PC to conduct a pre-Closing at which all deliveries to be made at Closing will be reviewed by the parties and placed in escrow. At 10:00 a.m. Dallas, Texas time, on the Closing Date, or as soon thereafter as is practicable, all instruments and payments shall be distributed and disbursed to Seller and Buyer, and the Closing shall be consummated.

8.2 Termination. This Agreement and the Contemplated Transactions may not be terminated except as follows:

- (a) Upon the mutual written consent of Seller and Buyer;
- (b) By Seller, if (i) Buyer is in material breach of this Agreement and (ii) such breach has not been cured on or before the Closing Date;
- (c) By Buyer, if (i) Seller is in material breach of this Agreement and (ii) such breach has not been cured on or before the Closing Date;
- (d) By Seller, if the Closing has not occurred on or before \_\_\_\_\_, 2015;
- (e) By Seller, if Seller enters into and consummates an Alternative Transaction pursuant to a sale order comparable to the Sale Order or if Seller, pursuant to such a sale order, agrees or determines to enter into an Alternative Transaction; or
- (f) By either Seller or Buyer, if there shall be in effect a final non-appealable court order restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby.

8.3 Effect of Termination.

(a) Upon the termination of this Agreement in accordance with Section 8.2 hereof, and except as set forth in Section 8.3(d) below, the Parties shall be relieved of any further obligations or liability under this Agreement other than obligations or liabilities in accordance with (i) the expense allocation provisions under Section 7.6, (ii) the jurisdiction provisions of Section 10.7 and (iii) obligations for breaches of this Agreement occurring prior to such termination.

(b) Upon any termination pursuant to Sections 8.2(b) or 8.2(d), Seller shall be entitled to retain the Cash Deposit as liquidated damages for expenses incurred in connection with this Agreement. The release of the Cash Deposit to Seller shall be the sole and exclusive remedy available to Seller upon such a termination.

(c) Upon any termination pursuant to Sections 8.2(a), 8.2(c), 8.2(e), or 8.2(f), Seller shall return the Cash Deposit to Buyer.

(d) Upon any termination pursuant to Section 8.2(e), in addition to the return of the Cash Deposit, Seller shall pay to Buyer a fee equal to two and one-half percent (2.5%) of the Purchase Price (the "Termination Fee"). The Termination Fee shall be payable in immediately available funds by wire transfer no later than five (5) days after such termination. Notwithstanding anything to the contrary in this Agreement, Buyer's right to receive the return of the Cash Deposit, plus payment of the Termination Fee shall be the sole and exclusive remedy of Buyer and its Affiliates against Seller or any of its Affiliates for any and all losses that may be suffered based upon, resulting from or arising out of such termination, and upon return of the Cash Deposit and payment of the Termination Fee, none of Seller or any of its Affiliates shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated by this Agreement.

(e) Notwithstanding anything to the contrary contained herein, the provisions of this Section 8.3 and Article VIII shall survive any termination of this Agreement.

ARTICLE IX

TAX MATTERS

9.1 Filing of Returns. In connection with the preparation and filing of Tax Returns as of and after the Sale Date, Buyer and Seller shall cooperate and exchange information as reasonably required to accomplish the matters contemplated by this Article IX.

9.2 Transaction Taxes. Buyer shall bear and be responsible for paying any sales, use, stamp, transfer, documentary, registration, business and occupation and other similar taxes (including related penalties (civil or criminal), additions to tax and interest) imposed by any Governmental Authority with respect to the transfer of the Purchased Assets to Buyer ("Transaction Taxes"), regardless of whether any Tax authority seeks to collect such taxes from

Seller or Buyer. Buyer shall also be responsible for (a) administering the payment of such Transaction Taxes, (b) defending or pursuing any proceedings related thereto, and (c) paying any expenses related thereto. Seller shall give prompt written notice to Buyer of any proposed adjustment or assessment of any Transaction Taxes with respect to the transactions contemplated hereby. In any proceedings, whether formal or informal, Seller shall permit Buyer to participate and control the defense of such proceeding with respect to such Transaction Taxes, and shall take all actions and execute all documents required to allow such participation, so long as Buyer is diligently pursuing the resolution thereof.

9.3 Tax Prorations. As to any Purchased Assets acquired by Buyer, Seller and Buyer shall apportion the liability for property taxes and ad valorem taxes (“Periodic Taxes”) for all Tax periods including but not beginning or ending on the Sale Date (the “Proration Periods”). The Periodic Taxes described in this Section 9.3 shall be apportioned between Seller and Buyer as of the Sale Date, with Buyer liable for that portion of the Periodic Taxes equal to the Periodic Tax for the Proration Period multiplied by a fraction, the numerator of which is the number of days remaining in the Proration Period including and after the Sale Date, and the denominator of which is the total number of days covered by such Proration Period. Seller shall be liable for that portion of the Periodic Taxes for the Proration Period for which Buyer is not liable under the preceding sentence. Buyer and Seller shall pay or be reimbursed for property taxes (including instances in which such property taxes have been paid before the Sale Date) on this prorated basis. If a payment on a tax bill is due after the Closing, the Party that is legally required to make such payment shall make such payment and promptly forward an invoice to the other Party for its pro rata share, if any. If the other Party does not pay the invoice within 30 calendar days of receipt, the amount of such payment shall bear interest at the rate of 6% per annum. The Party responsible for paying a tax described in this Section 9.3 shall be responsible for administering the payment of (and any reimbursement for) such Tax. For purposes of this Section 9.3, the Proration Period for ad valorem taxes and property taxes shall be the fiscal period for which such taxes were assessed by the relevant Tax jurisdiction.

9.4 Tax Refunds. Any Tax refunds (including any interest related thereto) received by Buyer, its Affiliates or successors relating to the Purchased Assets and to Tax periods or portions thereof ending on or before the Sale Date shall be for the account of Seller, and Buyer shall pay over to Seller any such amount within five days of receipt thereof. Buyer shall, if Seller so requests and at Seller’s direction and expense, file or cause its Affiliates to file for and obtain any Tax refunds with respect to the Purchased Assets and to Tax periods or portions thereof ending on or before the Sale Date.

ARTICLE X

MISCELLANEOUS CONSTRUCTION

10.1 Notices:

All notices shall be in writing delivered as follows:

(a) If to Buyer, to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

(b) If to Seller, to:

Gulf Packaging, Inc.  
c/o Gavin/Solmonese LLC  
919 N. Market Street, Suite 600  
Wilmington, DE 19801  
Attn: Ted Gavin  
Facsimile: \_\_\_\_\_  
Email: [ted.gavin@gavinsolmonese.com](mailto:ted.gavin@gavinsolmonese.com)

With a copy to:

Gray Reed & McGraw, PC  
1601 Elm Street, Suite 4600  
Dallas, TX 75201  
Attn: Jason S. Brookner  
Facsimile: (214) 953-1332  
Email: [jbrookner@grayreed.com](mailto:jbrookner@grayreed.com)



or to such other address as may have been designated in a prior notice. Notices sent by registered or certified mail, postage prepaid, return receipt requested, shall be deemed to have been given two business days after being mailed; notices sent by a nationally recognized commercial overnight carrier shall be effective the next business day after receipted delivery to such courier specifying overnight delivery; notices sent by facsimile shall be effective upon confirmation of receipt at the number specified above; notices sent by e-mail shall be effective upon receipt confirmation to the address specified; otherwise, notices shall be deemed to have been given when received at the address specified above (or other address specified in accordance with the foregoing).

10.2 Survival of Representations, Warranties, Covenants and Agreements. All representations and warranties made by Seller in this Agreement shall terminate on the Closing Date upon the purchase of the Purchased Assets by Buyer, and Seller shall have no liability after the Closing Date for any breach of any representation or warranty. Except as specifically set forth otherwise in the Agreement, all covenants and agreements of Seller shall lapse at, and be of no further force and effect following, the Closing.

10.3 Binding Effect. Except as may be otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, including, without limitation, any trustee, responsible person, estate administrator, representative or similar Person appointed for or in connection with the Chapter 11 Case or in any subsequent case under the Bankruptcy Code in which any Seller is a debtor. Except as otherwise provided in this Agreement, nothing in this Agreement is intended or shall be construed to confer on any Person other than the Parties any rights or benefits hereunder.

10.4 Headings. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

10.5 Exhibits and Schedules. The Exhibits and Schedules referred to in this Agreement shall be deemed to be an integral part of this Agreement.

10.6 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document.

10.7 Governing Law. Except to the extent inconsistent with the Bankruptcy Code (in which case the Bankruptcy Code shall govern), this Agreement shall be governed by and construed under Texas law, without regard to conflict of laws principles.

10.8 Waivers. Compliance with the provision of this Agreement may be waived only by a written instrument specifically referring to this Agreement and signed by the Party waiving compliance. No course of dealing, nor any failure or delay in exercising any right, shall be construed as a waiver, and no single or partial exercise of a right shall preclude any other or further exercise of that or any other right.

10.9 Pronouns. The use of a particular pronoun herein shall not be restrictive as to gender or number but shall be interpreted in all cases as the context may require.

10.10 Modification. No supplement, modification or amendment of this Agreement shall be binding unless made in a written instrument which is signed by the Parties and which specifically refers to this Agreement.

10.11 Assignment. No assignment by any Party of this Agreement or any right or obligation hereunder may be made without the prior written consent of the other Party, and any assignment attempted without such consent will be void *ab initio*.

10.12 Entire Agreement. This Agreement and the agreements and documents referred to in this Agreement or delivered hereunder are the exclusive statement of the agreement among the Parties concerning the subject matter hereof. All negotiations among the Parties are merged into this Agreement, and there are no representations, warranties, covenants, understandings or agreements, oral or otherwise, in relation thereto among the Parties other than those incorporated herein and to be delivered hereunder.

10.13 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, the legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be legal, valid, and enforceable.

*[Remainder of page intentionally left blank.]*

INTENDING TO BE LEGALLY BOUND, the Parties have signed this Agreement as of the date first above written.

**BUYER:**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SELLER:**

GULF PACKAGING, INC.

a Texas corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## INDEX OF SCHEDULES

Schedule 2.1 - Purchased Assets  
Schedule 2.2 - Assumed Liabilities  
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## INDEX OF EXHIBITS

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**Schedule 2.1**

**Purchased Assets**

**Schedule 2.2**

**Assumed Liabilities**

### Schedule 3.1

#### **Purchase Price Adjustment**

To the extent that Schedule 2.1 contains an itemized list of categories of Purchased Assets, including, (a) minimum quantities per category desired to be purchased and (b) a price per category or per unit, then the Purchase Price shall be adjusted on a per unit basis, to the extent the quantity in any category available to be conveyed to Buyer on the Closing Date is less than the minimum quantity specified on Schedule 2.1.

To the extent that Schedule 2.1 does not contain an itemized list of categories of Purchased Assets, including minimum quantities and a price per category or unit, then the Purchase Price shall be adjusted on a pro rata basis, to the extent the quantity in any category available to be conveyed to Buyer on the Closing Date is less than the quantity specified in the **[document being provided to Buyers]** (the "Asset List"). For purposes of calculating the adjustment, the aggregate Purchase Price per category shall be deemed to equal (a) the book value of all Purchased Assets as specified in the Asset List, divided by the aggregate Purchase Price for all Purchased Assets, prior to adjustment, multiplied by (b) the book value of the Purchased Assets included in such asset category as specified in the Asset List.

**Schedule 4.3**

**Allocation**



**Schedule 6.6**

**Brokers or Finders**

**Exhibit A**

**Bill of Sale**

This Bill of Sale (the "Bill of Sale") is made and entered into by and between Gulf Packaging, Inc., a Texas corporation ("Seller"), and \_\_\_\_\_, a \_\_\_\_\_ ("Buyer").

**WITNESSETH:**

WHEREAS, pursuant to that certain Asset Purchase Agreement dated July \_\_\_\_, 2015 (the "Agreement") by and between Seller and Buyer, Seller is conveying to Buyer all rights, title and interests of Seller in and to any and all Purchased Assets (as such term is defined in the Agreement) and as further described on Exhibit A.

NOW, THEREFORE, in consideration of the mutual promises contained in the Agreement, the receipt and sufficiency of which are hereby acknowledged and confessed by Seller, effective as of 12:01 a.m. on the Sale Date (the "Effective Time"), Seller does hereby ASSIGN, TRANSFER, SET OVER, CONVEY, and DELIVER to Buyer, its successors and assigns, all of its rights, title, and interests in and to the Purchased Assets.

TO HAVE AND TO HOLD the Purchased Assets unto Buyer, its successors and assigns, forever, free and clear of all liens, security interests and encumbrances, so that neither Seller, its successors or assigns or any third parties shall have, claim or demand any right or title thereto as of the Effective Time.

Seller and Buyer may execute this Bill of Sale in any number of counterparts, separately or together.

Except as provided in the Agreement, this is the final and exclusive expression of the agreement of Seller and Buyer as to the subject matter hereof, and no course of dealing or usage of trade or course of performance shall be relevant to explain or supplement any term expressed in this Bill of Sale. In the event of a conflict between the terms of this Bill of Sale and the Agreement, the Agreement shall control. Capitalized terms used in this Bill of Sale shall, unless defined herein, have the meanings given to such terms in the Agreement.

*[ Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, Seller and Buyer have executed this Bill of Sale to be effective as of the Effective Time.

**SELLER:**

GULF PACKAGING, INC.  
a Texas corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BUYER:**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## Exhibit B

### Assignment and Assumption Agreement

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Agreement”), dated \_\_\_\_\_, 2015, is between Gulf Packaging, Inc., a Texas Corporation (“Assignor”), and \_\_\_\_\_, a \_\_\_\_\_ (“Assignee”). Assignor and Assignee are sometimes collectively referred to as the “Parties” and individually referred to as a “Party”.

WHEREAS, pursuant to that certain Asset Purchase Agreement dated July \_\_\_\_, 2015 (the “Purchase Agreement”) by and between Assignor and Assignee, Assignor desires to assign its rights, and Assignee desires to assume Assignor’s obligations, under the contracts listed or described on Exhibit A hereto (the “Assumed Liabilities”) pursuant to the terms hereof.

NOW, THEREFORE, in consideration of the foregoing, the covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby covenant and agree as follows:

1. Effective Time. This Agreement and the assignment and assumption provided for in this Agreement shall be effective at 12:01 a.m. on the Sale Date (the “Effective Time”).
2. Assignment by Assignor. As of the Effective Time, Assignor hereby transfers, assigns, conveys and delivers to Assignee, all of its rights under contracts listed on Exhibit A.
3. Assumption by Assignee. Assignee hereby fully and completely assumes and agrees to perform all of the duties, liabilities, and obligations of Assignor arising from and after the Effective Time.
4. Counterparts; Further Assurances. The Parties may execute this Agreement in any number of counterparts, separately or together. The Parties shall from time to time execute and deliver to each other such other documents, in form and substance satisfactory to the other, as may be necessary or appropriate to more fully accomplish the assignment and assumption contemplated hereby.
5. Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision never comprised a part hereof; the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as part of this Agreement a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

6. Entire Agreement, Etc. This Agreement and the Purchase Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. In the event of a conflict between the terms of this Agreement and the Purchase Agreement, the Purchase Agreement shall control. Capitalized terms used in this Agreement shall, unless defined herein, have the meaning given to such terms in the Purchase Agreement.

7. Governing Law; Venue. This Agreement and the rights and obligations of the Parties shall be governed by, construed, and enforced in accordance with laws of Texas.

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement to be effective as of the Effective Time.

**ASSIGNOR:**

GULF PACKAGING, INC.  
a Texas corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ASSIGNEE:**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_