

**EXHIBIT B**

**Stock Purchase Agreement**

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STOCK PURCHASE AGREEMENT

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Between

PILGRIM'S PRIDE CORPORATION

and

JBS USA HOLDINGS, INC.

Dated as of September 16, 2009

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EXHIBITS

- A Form of Stockholders Agreement
- B Form of Certificate of Incorporation of the Reorganized Company
- C Form of Bylaws of the Reorganized Company

## STOCK PURCHASE AGREEMENT

STOCK PURCHASE AGREEMENT, dated as of September 16, 2009, between PILGRIM'S PRIDE CORPORATION, a Delaware corporation (the "Company"), and JBS USA Holdings, Inc., a Delaware corporation (the "Purchaser").

### RECITALS

WHEREAS, the Company, directly and through its Subsidiaries, is engaged in the business of poultry product production at various locations in the United States and Mexico (the "Business");

WHEREAS, the Debtors commenced the Bankruptcy Cases in the Bankruptcy Court for relief under the Bankruptcy Code;

WHEREAS, the Company has determined that the transactions set forth in this Agreement support the preservation of the value inherent in the Company and its Assets ultimately available to the creditors of the Company;

WHEREAS, in connection with the Bankruptcy Cases, the Company intends to file the Reorganization Plan, pursuant to which the Company intends to seek the approval of the Bankruptcy Court of this Agreement and the Transactions, and authority to perform all of its obligations under this Agreement and the Ancillary Agreements;

WHEREAS, pursuant to the Reorganization Plan and this Agreement, at the Closing, (i) the Purchaser shall pay the Company the Purchase Price, (ii) all of the existing equity interests in the Company will be cancelled, (iii) the Company shall issue the Reorganized Company Shares to the Purchaser representing 100% of the outstanding equity of the Reorganized Company less the Stock Consideration (such shares, the "Purchaser Shares") and (iv) the Company shall issue to each holder of Existing Shares a number of Reorganized Company Share(s) in accordance with the Share Conversion Factor, all upon the terms and subject to the conditions set forth herein;

WHEREAS, the offer and issuance under the Reorganization Plan of Reorganized Company Shares will be exempt from registration under the Securities Act and under applicable state securities laws pursuant to section 1145 of the Bankruptcy Code and applicable non-bankruptcy Law; and

WHEREAS, the Company and the Purchaser intend that the exchange by the holders of Existing Shares for Reorganized Company Shares of the same class shall be considered a tax-free reorganization.

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants hereinafter set forth, and intending to be legally bound, the Company and the Purchaser hereby agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Certain Defined Terms. For purposes of this Agreement:

“Acquisition Proposal” means any inquiry, proposal or offer for a merger, recapitalization, share exchange, stock purchase (including a rights offering with respect to the Company’s securities), debt-for-equity exchange, distribution of securities for the benefit of the stockholders of the Company, consolidation or similar transaction involving a sale or purchase (directly or through a proposed investment in equity securities, debt securities or claims of creditors) of 40% or more of the equity securities or Assets of the Company or the Subsidiaries, other than the Transactions.

“Action” means any claim, action, suit, arbitration, inquiry, proceeding or investigation by or before any Governmental Authority.

“Affiliate” means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person.

“Agreement” or “this Agreement” means this Stock Purchase Agreement between the parties hereto (including the Exhibits and Schedules hereto and the Disclosure Schedule) and all amendments hereto made in accordance with the provisions of Section 10.08.

“Ancillary Agreements” means the Stockholders Agreement.

“Assets” means the assets and properties of the Company and the Subsidiaries.

“Assumption-Pending Pre-Petition Contracts” means all Contracts that were entered into prior to the filing of the Bankruptcy Cases to which one of the Debtors is a party that, as of the date hereof, have not been assumed or rejected by the respective Debtor.

“Bankruptcy Cases” means the cases under chapter 11 of the Bankruptcy Code commenced by the Debtors on December 1, 2008 in the Bankruptcy Court and styled *In re Pilgrim’s Pride Corporation, et al.*, Chapter 11 Case No. 08-45664 (DML) (Jointly Administered).

“Bankruptcy Code” means title 11 of the United States Code, as amended from time to time, as applicable to the Bankruptcy Cases.

“Bankruptcy Court” means the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division, or such other court that exercises jurisdiction over the Bankruptcy Cases.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United



States Code, as amended from time to time, and any Local Rules of the Bankruptcy Court, as applicable to the Bankruptcy Cases.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in The City of New York.

“Bylaws” means the restated bylaws to be adopted by the Company on the Effective Date or as soon as practicable thereafter, in the form of Exhibit C to this Agreement.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended through the Closing.

“CERCLIS” means the Comprehensive Environmental Response, Compensation and Liability Information System, as updated through the Closing.

“Claim” shall have the meaning ascribed to such term in section 101 of the Bankruptcy Code.

“Code” means the Internal Revenue Code of 1986, as amended through the date hereof.

“Company Contract” means any Contract that relates to, or is used or useful in or held for use in, the business conducted by the Company and its Subsidiaries.

“Company Intellectual Property” means Owned Intellectual Property and the Licensed Intellectual Property.

“Company IP Agreements” means all written contracts with terms affecting the rights to Intellectual Property or IT Assets to which the Company or any Subsidiary is a party or beneficiary, or by which the Company or any Subsidiary, or any of its Intellectual Property or IT Assets, is or may be bound, including all (i) licenses of Intellectual Property by the Company or any Subsidiary to any Person, (ii) licenses of Intellectual Property by any Person to the Company or any Subsidiary, (iii) contracts between any Person and the Company or any Subsidiary providing for the transfer, development, maintenance or use of Intellectual Property or IT Assets or the use, modification, framing, linking, advertisement or other practices with respect to Internet websites, and (iv) consents, settlements, decrees, orders, injunctions, judgments or rulings governing the use, validity or enforceability of Company Intellectual Property or Company IT Assets.

“Company IT Assets” means any IT Asset that is used in or held for use in, the Business.

“Company SEC Documents” means all forms, reports, schedules, statements and other documents (including, in each case, exhibits, schedules, amendments or supplements thereto, and any other information incorporated by reference therein) required to be filed with the SEC by the Company since January 1, 2006 under the Exchange Act or the Securities Act (as such documents have been amended or supplemented between the time of their respective filings and the date of this Agreement).

“Confirmation Date” means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court with respect to the Bankruptcy Cases.

“Confirmation Hearing” means the hearing to be held by the Bankruptcy Court regarding confirmation of the Reorganization Plan in accordance with section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

“Confirmation Order” means the order of the Bankruptcy Court confirming the Reorganization Plan pursuant to section 1129 of the Bankruptcy Code and stating that the offer and issuance under the Reorganization Plan of Reorganized Company Shares (and the issuance of any Exchange Shares (as defined in the Restated Certificate of Incorporation)) will be exempt from registration under the Securities Act and under applicable state securities laws pursuant to section 1145 of the Bankruptcy Code and applicable non-bankruptcy Law.

“Contract” means any contract, arrangement, note, bond, commitment, purchase order, sales order, franchise, guarantee, indemnity, indenture, instrument, lease, license or other agreement, understanding, instrument or obligation, whether written or oral, all amendments, supplements and modifications of or for any of the foregoing and all rights and interests arising thereunder or in connection therewith, other than any Plans.

“control” (including the terms “controlled by” and “under common control with”), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise.

“Debtors” means the Company, PFS Distribution Company, PPC Transportation Company, To-Ricos, Ltd., To-Ricos Distribution, Ltd., Pilgrim’s Pride Corporation of West Virginia, Inc., and PPC Marketing, Ltd.

“Deemed Value” means, in respect of a Superior Proposal or the Transactions, as applicable, the aggregate dollar value to the Company and its bankruptcy estate of all cash and non-cash, as applicable, consideration comprising the Superior Proposal or Transactions, as applicable, as determined by the Board of Directors of the Company after consultation with its financial and legal advisors, and such other advisors as the Board of Directors of the Company chooses to consult.

“Determined Cure Costs” means the amounts required to be paid to counterparties of Assumption-Pending Pre-Petition Contracts on account of the assumption thereof pursuant to section 365 of the Bankruptcy Code and Section 5.02(b) hereof, which amounts shall be determined in accordance with Section 5.02 or pursuant to a Final Order.

“Disclosure Schedule” means the Disclosure Schedule attached hereto, dated as of the date hereof, delivered by the Company to the Purchaser in connection with this Agreement.

“Disclosure Statement” means the disclosure statement relating to the Reorganization Plan to be filed by the Company pursuant to section 1125 of the Bankruptcy Code (including all schedules and amendments thereto), as such disclosure statement may be amended or modified from time to time, in form and substance satisfactory to the Company, and insofar as it relates to or concerns this Agreement or any of the Ancillary Agreements and the Transactions, and to the extent it describes the Purchaser, in form and substance reasonably satisfactory to the Purchaser.

“Disclosure Statement Order” means an order of the Bankruptcy Court approving, among other things, the Disclosure Statement and establishing certain procedures with respect to the solicitation and tabulation of votes to accept or reject the Reorganization Plan.

“Effective Date” means a Business Day specified by the Debtors on or after the Confirmation Date, on which (a) no stay of the Confirmation Order is in effect and (b) the conditions to the effectiveness of the Reorganization Plan specified in Article 11 of the Reorganization Plan have been satisfied or waived.

“Employee Stock Purchase Plan” means the Pilgrim’s Pride Corporation Employee Monthly Stock Investment Plan.

“Encumbrance” means any security interest, pledge, hypothecation, mortgage, deed of trust, leasehold mortgage, leasehold deed of trust, lien (including environmental and tax liens), violation, charge, lease, license, encumbrance, servient easement, adverse claim, reversion, reverter, preferential arrangement, restrictive covenant, condition or restriction of any kind, including any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership.

“Enforceability Exceptions” means, with reference to the enforcement of the terms and provisions of this Agreement or any other Contract, that the enforcement thereof is or may be subject to the effect of (a) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity) and the exercise of equitable powers by a court of competent jurisdiction, and (b) applicable Laws or public policy limiting the enforcement of provisions providing for the indemnification of any Person.

“Environment” means surface waters, groundwaters, soil, subsurface strata and ambient air.

“Environmental Claims” means any Actions relating in any way to any Environmental Law or any Environmental Permit, including (a) any and all Actions by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law, and (b) any and all Claims by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the Environment.

“Environmental Laws” means all Laws and any legally binding judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, health, safety, natural resources or Hazardous

Materials, including CERCLA; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 6901 et seq.; the Clean Water Act, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.; the Atomic Energy Act, 42 U.S.C. §§ 2011 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; and the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq.

“Environmental Permits” means all permits, approvals, identification numbers, licenses and other authorizations required under or issued pursuant to any applicable Environmental Law.

“ERISA Affiliate” means any entity that is a member of a controlled group for purposes of Section 4001(a)(14) of ERISA.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, including the rules and regulations promulgated thereunder.

“Final Order” means an order or judgment of the Bankruptcy Court, entered by the Clerk of the Bankruptcy Court on the docket in the Bankruptcy Cases, that has not been reversed, vacated, or stayed, and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, reargument, or rehearing has expired, and as to which no appeal, petition for certiorari, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (b) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, reargument, or rehearing shall have expired; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the local court rules, may be filed relating to such order shall not cause such order to not be a Final Order.

“GAAP” means United States generally accepted accounting principles and practices in effect from time to time applied consistently throughout the periods involved.

“Governmental Authority” means any federal, national, supranational, state, provincial, local, or similar government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body.

“Governmental Order” means any order, writ, ruling, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

“Hazardous Materials” means (a) petroleum and petroleum products, radioactive materials, asbestos-containing materials, urea formaldehyde foam insulation, transformers or other equipment that contain polychlorinated biphenyls, toxic mold, greenhouse gases and radon gas, (b) any other chemicals, materials or substances defined as or included in the definition of “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous

wastes”, “restricted hazardous wastes”, “toxic substances”, “toxic pollutants”, “contaminants” or “pollutants”, or words of similar import, under any applicable Environmental Law, and (c) any other chemical, material or substance that is regulated by any Environmental Law.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“Indebtedness” means, with respect to any Person, (a) all indebtedness of such Person, whether or not contingent, for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services, (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases, (f) all obligations, contingent or otherwise, of such Person under banker acceptance, letter of credit or similar facilities, (g) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value any capital stock of such Person or any warrants, rights or options to acquire such capital stock, valued, in the case of redeemable preferred stock, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends, (h) all Indebtedness of others referred to in clauses (a) through (g) above guaranteed directly or indirectly in any manner by such Person, or in effect guaranteed directly or indirectly by such Person through an agreement (I) to pay or purchase such Indebtedness or to advance or supply funds for the payment or purchase of such Indebtedness, (II) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Indebtedness or to assure the holder of such Indebtedness against loss, (III) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered), or (IV) otherwise to assure a creditor against loss, and (i) all Indebtedness referred to in clauses (a) through (g) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Encumbrance on property (including accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness.

“ING Credit Agreement” means that certain Credit Agreement, dated September 25, 2006, by and among Avicola Pilgrim’s Pride de Mexico, S. de R.L. de C.V., as borrower, the Company and certain Subsidiaries of the Company, as guarantors, ING Capital LLC, as Administrative Agent, the lenders party thereto from time to time, and others, as amended.

“Intellectual Property” means, in any and all jurisdictions worldwide, all (a) patents, utility models, inventions and discoveries, statutory invention registrations, mask works, invention disclosures, and industrial designs, community designs and other designs, (b) trademarks, service marks, domain names, uniform resource locators, trade dress, trade names, geographical indications and other identifiers of source or goodwill, including the goodwill symbolized thereby or associated therewith, (c) works of authorship (including software) and copyrights, and moral rights, design rights and database rights therein and thereto, (d) confidential and proprietary information, including trade secrets, know-how and invention

rights subject to intellectual property right protection, (e) rights of privacy and publicity and, (f) registrations, applications, renewals and extensions for any of the foregoing in (a)-(e).

“Inventories” means all inventory, merchandise, finished goods, and raw materials, packaging, labels, supplies and other personal property maintained, held or stored by or for the Company or any Subsidiary at the Closing, and any prepaid deposits for any of the same.

“IRS” means the Internal Revenue Service of the United States.

“IT Assets” means software, systems, servers, computers, hardware, firmware, middleware, networks, data communications lines, routers, hubs, switches and all other information technology equipment, and all associated documentation.

“knowledge” means the actual knowledge of any Executive Vice President or more senior officer of the Company.

“Law” means any federal, national, supranational, state, provincial, local or similar statute, law, ordinance, regulation, rule, code, order, requirement or rule of law (including common law).

“Leased Real Property” means the real property leased or subleased by the Company or any Subsidiary as tenant or subtenant, as applicable, together with, to the extent leased or subleased by the Company or any Subsidiary, all buildings and other structures, facilities or improvements currently or hereafter located thereon, all fixtures, systems, equipment and items of personal property of the Company or any Subsidiary attached or appurtenant thereto and all easements, rights of way, servitudes, licenses, tenements, privileges and appurtenances relating to the foregoing.

“Liabilities” means any and all debts, liabilities and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including those arising under any Law (including any Environmental Law), Action or Governmental Order and those arising under any contract, agreement, arrangement, commitment or undertaking.

“Licensed Intellectual Property” means Intellectual Property licensed to the Company or any Subsidiary pursuant to the Company IP Agreements.

“Mandatory Exchange Transaction” shall have the meaning ascribed to such term in the Restated Certificate of Incorporation.

“Material Adverse Effect” means any circumstance, change or effect that, individually or in the aggregate with all other circumstances, changes or effects: (a) is or is reasonably likely to be materially adverse to the business, operations, assets or liabilities (including contingent liabilities), results of operations or the condition (financial or otherwise) of the Business, or the Company and the Subsidiaries taken as a whole, or (b) is reasonably likely to materially and adversely affect the ability of the Purchaser to operate or conduct the Business in the manner in which it is currently operated or contemplated by the Company to be operated as of the date hereof, provided, however, that in no event shall any of the following be taken into

account in determining whether there has been a Material Adverse Effect on the Company or whether there has been a breach of a representation, warranty, covenant or agreement that is qualified by the term “Material Adverse Effect” (except with respect to clauses (i), (iii), and (iv) below, to the extent that such circumstance, change or effect affects the Company and the Subsidiaries in a disproportionately adverse manner relative to other participants in the poultry industry):

- (i) any effect that results from changes in general economic conditions or changes in financial or securities markets or political conditions, in general;
- (ii) any effect caused by a material worsening of current conditions caused by acts of terrorism or war (whether or not declared);
- (iii) any changes in the poultry industry or markets in which the Company or any of its Subsidiaries operate, including as a result of diseases or export and import restrictions or embargos;
- (iv) any changes or proposed changes in Law, or the interpretation thereof, or GAAP, or the interpretation thereof, or other accounting requirements applicable to the Company or its Subsidiaries;
- (v) any changes attributable to the negotiation, execution or announcement of the Transactions, or the Company’s compliance with this Agreement or act or omission taken pursuant to the terms of this Agreement or with the approval or consent of the Purchaser or any act or omission taken at the direction or request of the Purchaser;
- (vi) any failure by the Company to meet any internal or published projections or forecasts for any period, in and of itself (as distinguished from any circumstance, change or effect giving rise or contributing to such failure);
- (vii) any change in the price or trading volume of the Company’s common stock, in and of itself (as distinguished from any circumstance, change or effect giving rise or contributing to such change);
- (viii) any changes to chicken, feed, feed ingredient and other commodity prices;
- (ix) any operating losses of a nature and in an amount similar to those prevailing prior to the date hereof;
- (x) the existence of the Bankruptcy Cases; and
- (xi) any expenses incurred in connection with the negotiation, documentation and execution of this Agreement and the consummation of the Transactions.

“Material Contract” means:

- (a) all Contracts for the purchase or sale of assets, Inventory or other personal property, products or services that have a material effect on the Business;

(b) all distributor, dealer, franchise, agency, sales promotion, market research, marketing, consulting and advertising Contracts that have a material effect on the Business;

(c) all management Contracts and Contracts with independent contractors or consultants (or similar agreements) to which the Company or any Subsidiary is a party and which cannot be cancelled by the Company or such Subsidiary without penalty or further payment and without more than 30 days' notice and all contracts and agreements providing for benefits under any Plan;

(d) all Contracts relating to Indebtedness of the Company or any Subsidiary that have a material effect on the Business;

(e) all Contracts and agreements with any Governmental Authority that have a material effect on the Business;

(f) all Contracts that limit or restrict the ability of the Company or any Subsidiary to compete in any line of business or with any Person or in any geographic area or during any period of time, in each case, that have a material effect on the Business;

(g) all Contracts between or among the Company or any Subsidiary on the one hand, and any Affiliate of the Company or such Subsidiary (other than the Company or a Subsidiary), on the other hand;

(h) all Contracts outside the ordinary course of business providing for indemnification by the Company or any Subsidiary, other than in connection with respect to standard terms and conditions of a Contract for the purchase or sale of assets, Inventory or other personal property, products or services in the ordinary course of business;

(i) all Contracts for the lease of equipment or other Tangible Personal Property that have a material effect on the Business;

(j) all Contracts relating to the occupancy of the Leased Real Property that have a material effect on the Business;

(k) all Contracts with any director, officer, independent contractor or employee of the Company or any of the Subsidiaries to which the Company or any Subsidiary is a party and which cannot be cancelled by the Company or such Subsidiary without penalty or further payment or without more than 30 days notice (in each case, other than (i) employment agreements covered in clause (c) above and (ii) Plans);

(l) all Contracts providing for benefits under any Plan;

(m) all Contracts not made in the ordinary course of business that have a material effect on the Business; and

(n) all other Contracts, whether or not made in the ordinary course of business, that are material to the Company, any Subsidiary or the conduct of the Business, or the absence of which would reasonably be expected to have a Material Adverse Effect.



“national securities exchange” means a national securities exchange registered with the SEC pursuant to Section 6 of the Exchange Act.

“Owned Intellectual Property” means all Intellectual Property owned by or under obligation of assignment to the Company or any Subsidiary.

“Owned Real Property” means the real property in which the Company or any Subsidiary has fee title (or equivalent) interest, together with all buildings and other structures, facilities or improvements currently or hereafter located thereon, all fixtures, systems, equipment and items of personal property of the Company or any Subsidiary attached or appurtenant thereto and all easements, rights of way, servitudes, licenses, tenements, privileges and appurtenances relating to the foregoing.

“Permits” means all franchises, permits, consents, certificates, clearances, approvals, exceptions, variances, permissions, filings, publications, declarations, notices, licenses, agreements, waivers and authorizations, including Environmental Permits, of or with any Governmental Authority related to the Business or used, useful or held for use by any of the Company or the Subsidiaries in connection with the Business, and all rights and benefits accruing thereunder.

“Permitted Encumbrances” means such of the following as to which no execution, levy or foreclosure proceeding shall have been commenced which are not otherwise stayed or, with respect to any Subsidiary that is not a Debtor, diligently being prosecuted: (a) liens for Taxes not yet due and payable for which adequate reserves have been maintained in accordance with GAAP; (b) Encumbrances imposed by Law, such as materialmen’s, mechanics’, carriers’, warehousemen’s, workmen’s and repairmen’s liens and other similar liens arising in the ordinary course of business; (c) pledges or deposits to secure obligations under workers’ compensation laws or similar legislation or to secure public or statutory obligations; (d) minor survey exceptions, reciprocal easement agreements and other customary encumbrances on title to real property that (i) were not incurred in connection with any Indebtedness, (ii) do not render title to the property encumbered thereby unmarketable or uninsurable, and (iii) do not, individually or in the aggregate, materially and adversely affect the value of or the use of such property for its current purposes; (e) Encumbrances that are released on or prior to the Closing Date; (f) Encumbrances arising under this Agreement and the Ancillary Agreements; (g) Encumbrances securing Indebtedness under the Secured Credit Facilities and the ING Credit Agreement; (h) all matters of record, Encumbrances and other imperfections or defects of title and encumbrances that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect; (i) any Encumbrances created by an act or omission of the Purchaser; and (j) Encumbrances securing Indebtedness to repay the Secured Credit Facilities.

“Person” means any individual, partnership, firm, corporation, limited liability company, association, trust, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

“Plan Documents” means the documents to be executed, delivered, assumed, and/or performed in conjunction with the consummation of the Reorganization Plan on the Effective Date, which will be included in draft form in the Plan Supplement.

“Plan Supplement” means the document (as may be amended, modified or supplemented) containing the forms of documents specified in Section 13.10 of the Reorganization Plan.

“Post-Petition Credit Agreement” means the Amended and Restated Post-Petition Credit Agreement, dated December 31, 2008, among the Company, as borrower, certain Subsidiaries, as guarantors, the Bank of Montreal, as DIP Agent, the lenders party thereto from time to time, and others, as amended.

“Purchase Price” means \$800,000,000.

“Purchase Price Bank Account” means a bank account in the United States to be designated by the Company in a written notice to the Purchaser at least five Business Days before the Closing.

“Real Property” means the Leased Real Property and the Owned Real Property.

“Receivables” means any and all accounts receivable, notes and other amounts receivable from third parties, including customers and employees, arising from the conduct of the Business before the Closing, whether or not in the ordinary course, together with any unpaid financing charges accrued thereon.

“Registered” means issued by, registered, recorded or filed with, renewed by or the subject of a pending application before any Governmental Authority or Internet domain name registrar.

“Regulations” means the Treasury Regulations (including Temporary Regulations) promulgated by the United States Department of Treasury with respect to the Code or other federal tax statutes.

“Release” means disposing, discharging, injecting, spilling, leaking, leaching, dumping, emitting, escaping, emptying, seeping, placing and the like into or upon any land or water or air or otherwise entering into the Environment.

“Remedial Action” means all action to (a) clean up, remove, treat or handle in any other way Hazardous Materials in the Environment; (b) prevent the Release of Hazardous Materials so that they do not migrate, endanger or threaten to endanger public health or the Environment; or (c) perform remedial investigations, feasibility studies, corrective actions, closures and post-remedial or post-closure studies, investigations, operations, maintenance and monitoring.

“Reorganization Plan” means the Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, including the Plan Documents, the Plan Supplement, and the exhibits and schedules hereto and thereto, as the same may be amended or modified from time to time in accordance with the provisions of the Bankruptcy Code and the terms of the Reorganization Plan.

“Reorganized Company” means the Company, as reorganized as of the Effective Date in accordance with the Reorganization Plan.

“Reorganized Company Shares” means the shares of common stock to be issued by the Reorganized Company, having the material terms set forth in the Restated Certificate of Incorporation.

“Restated Certificate of Incorporation” means the restated certificate of incorporation to be adopted by the Company and filed with the Secretary of State of the State of Delaware on the Effective Date or as soon as practicable thereafter, in the form of Exhibit B to this Agreement.

“SEC” means the United States Securities and Exchange Commission.

“Secured Credit Facilities” means the Company’s secured credit facilities, including (a) that certain Amended and Restated Credit Agreement, dated September 21, 2006, among the Company, CoBank, ACB, and others, as amended, (b) that certain Fourth Amended and Restated Secured Credit Agreement, dated February 8, 2007, among the Company, To-Ricos, Ltd., the Bank of Montreal, and others, as amended and (c) the Post-Petition Credit Agreement.

“Securities Act” means the Securities Act of 1933, as amended, including the rules and regulations promulgated thereunder.

“Stockholders” means the stockholders of the Company on or prior to the Closing Date.

“Stockholders Agreement” means the Stockholders Agreement between the Reorganized Company and the Purchaser in the form of Exhibit A.

“Subsequent SEC Filings” means, collectively, all subsequent filings made after the date of this Agreement amending or superseding any Company SEC Documents (including any statements or schedules therein) and any forms, reports, schedules, statements, registration statements, proxy statements, or other documents (including, in each case, exhibits, schedules, amendments or supplements thereto, and any other information incorporated by reference therein) filed with the SEC after the date of this Agreement.

“Subsidiaries” means any subsidiary of the Company and any and all entities listed on Section 3.02 of the Disclosure Schedule.

“Superior Proposal” means a bona fide written Acquisition Proposal for 51% or more of the equity or assets of the Company and with a Deemed Value in excess of \$800,000,000 that the Board of Directors of the Company determines (after consultation with its legal, financial and other advisors) in good faith (a) is reasonably likely to be consummated, taking into account all factors deemed relevant by the Board of Directors of the Company (including all legal, financial and regulatory aspects of the proposal and the Person making the Acquisition Proposal), (b) if consummated would, taking into account all factors deemed relevant by the Board of Directors of the Company (including the amounts that would be owed to

the Purchaser pursuant to Section 9.02(b), Section 9.02(c), the likelihood that such Acquisition Proposal would be consummated in a timely manner, the costs reasonably likely to be incurred in connection with any negotiation of an Acquisition Proposal, the type and quality of the consideration to be received by the Company and its bankruptcy estate and the existence of any condition that the purported counterparty obtain financing in order to consummate the Acquisition Proposal), result in a transaction more favorable in the aggregate to the Company and its bankruptcy estate than the Transactions, and (c) provide a Deemed Value in the aggregate that exceeds the Deemed Value of this Agreement and the Transactions by at least \$10,000,000.

“Tangible Personal Property” means machinery, equipment, tools, supplies, furniture, fixtures, personalty, vehicles, rolling stock and other tangible personal property.

“Taxes” means (a) any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any Government Authority, including taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers’ compensation, unemployment compensation, or net worth; taxes or other charges in the nature of excise, withholding, ad valorem, stamp, transfer, value-added, or gains taxes; license, registration and documentation fees; and customs’ duties, tariffs, and similar charges and (b) liability for the payment of any Tax (i) as a result of being a member of a consolidated, combined, unitary or affiliated group that includes any other Person, (ii) by reason of any obligation to indemnify or otherwise assume or succeed to the liability of any other Person for Taxes, including a Tax sharing, Tax indemnity or similar agreement, or (iii) by reason of transferee or successor liability.

“Tax Returns” means any return, declaration, report, election, claim for refund or information return or other statement or form relating to, filed or required to be filed with respect to Taxes, including any schedule or attachment thereto or any amendment thereof.

“Transactions” means the transactions contemplated by this Agreement and the Ancillary Agreements.

SECTION 1.02. Definitions. The following terms have the meanings set forth in the Sections listed below:

<u>Definition</u>	<u>Location</u>
“ <u>Affiliate Transaction</u> ” .....	3.21
“ <u>Assumption Schedule</u> ” .....	5.02(b)
“ <u>Business</u> ” .....	Recitals
“ <u>Closing</u> ” .....	2.03
“ <u>Closing Date</u> ” .....	2.03
“ <u>Company</u> ” .....	Preamble
“ <u>Company Confidentiality Agreement</u> ” .....	3.04
“ <u>Confidentiality Agreements</u> ” .....	4.02
“ <u>Contingent Worker</u> ” .....	3.19

“Covered Employees” .....	6.01(b)
“D&O Insurance” .....	5.03(c)
“Debtor” .....	Recitals
“ERISA” .....	3.18(a)
“Existing Shares” .....	2.01(b)
“Evaluation Material” .....	5.05
“Indemnified Parties” .....	5.03(a)
“Initial Termination Date” .....	9.01(g)
“Insider” .....	5.14(a)
“Insurance Policies” .....	3.23
“Matching Right” .....	5.09(d)
“Multiemployer Plan” .....	3.18(d)
“Multiple Employer Plan” .....	3.18(d)
“Non-U.S. Benefit Plan” .....	3.18(h)
“Plan Sponsor Order” .....	5.08(a)
“Plans” .....	3.18(a)
“Purchaser” .....	Preamble
“Purchaser Confidentiality Agreement” .....	4.02
“Purchaser Shares” .....	Recitals
“Real Estate Disclosure Documentation” .....	3.14(c)
“Share Conversion Factor” .....	2.01(c)
“Stock Consideration” .....	2.01(b)
“Tail Policy” .....	5.03(c)
“Termination Date” .....	9.01(g)
“Termination Fee” .....	9.02(b)

SECTION 1.03. Interpretation and Rules of Construction. In this Agreement, except to the extent otherwise provided or that the context otherwise requires:

- (i) when a reference is made in this Agreement to an Article, Section, Exhibit or Schedule, such reference is to an Article or Section of, or an Exhibit or Schedule to, this Agreement unless otherwise indicated;
- (ii) the table of contents and headings for this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement;
- (iii) whenever the words “include”, “includes” or “including” are used in this Agreement, they are deemed to be followed by the words “without limitation”;
- (iv) the words “hereof”, “herein” and “hereunder” and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (v) all terms defined in this Agreement have the defined meanings when used in any certificate or other document made or delivered pursuant hereto, unless otherwise defined therein;

- (vi) the definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms;
- (vii) any Law defined or referred to herein or in any agreement or instrument that is referred to herein means such Law or statute as from time to time amended, modified or supplemented, including by succession of comparable successor Laws;
- (viii) references to a Person are also to its successors and permitted assigns; and
- (ix) the use of “or” is not intended to be exclusive unless expressly indicated otherwise.

## ARTICLE II

### PURCHASE AND SALE

SECTION 2.01. Transaction; Purchase Price. (a) Upon the terms and subject to the conditions of this Agreement, at the Closing, the Purchaser shall purchase from the Company, and the Company shall sell to the Purchaser, the Purchaser Shares in consideration for the Purchase Price and the representations, warranties and covenants contained herein.

(b) On and as of the Closing Date, pursuant to the Reorganization Plan, each share of common stock, par value \$.01 per share, of the Company issued and outstanding immediately prior to Closing (other than any shares to be cancelled pursuant to Section 2.01(d)) (the “Existing Shares”) shall be cancelled and converted automatically into the right to receive a number of fully paid and nonassessable Reorganized Company Share(s) equal to the Share Conversion Factor (the total number of shares issuable pursuant to this Section 2.01(b), the “Stock Consideration”).

(c) For purposes of this Agreement, “Share Conversion Factor” means the number determined by application of the following formula:

$$\text{SCF} = (0.36 \times \text{NNS}) / \text{NES}$$

where:

NNS = The number of shares necessary to cause SCF to be 1, or such other number of shares agreed in writing by the parties.

NES = The total number of Existing Shares

SCF = Share Conversion Factor

(d) Each share of common stock, par value \$.01 per share, of the Company held in the treasury of the Company or any Subsidiary immediately prior to the Closing and each share of restricted stock of the Company as to which any conditions to vesting shall not have lapsed or shall not have been satisfied at or immediately prior to the Closing shall be canceled without any conversion thereof and no distribution shall be made with respect thereto.

SECTION 2.02. Exchange Procedures. The procedures pursuant to which holders of Existing Shares shall exchange certificates representing Existing Shares for Stock Consideration shall be set forth in the Disclosure Statement Order.

SECTION 2.03. Closing. Subject to the terms and conditions of this Agreement, the sale and purchase of the Purchaser Shares contemplated by this Agreement shall take place at a closing (the "Closing") to be held at the offices of Shearman & Sterling LLP, 599 Lexington Avenue, New York, New York at 10:00 A.M. New York time the first Monday next succeeding the fifth day following the satisfaction or waiver of all conditions to the obligations of the parties set forth in Article VIII (excluding conditions that, by their nature, cannot be satisfied until the Closing Date, but subject to the fulfillment or waiver of those conditions), but no earlier than the eleventh day following entry of the Confirmation Order, or at such other place or at such other time or on such other date as the Company and the Purchaser may mutually agree upon in writing; provided that the Closing shall be deemed to have occurred at 11:59 P.M. Central time on the Saturday immediately preceding the closing held in accordance herewith (the "Closing Date").

SECTION 2.04. Closing Deliveries by the Company. At or prior to the Closing, the Company shall deliver or cause to be delivered to the Purchaser:

- (a) stock certificates evidencing the Purchaser Shares duly endorsed in blank, or accompanied by stock powers duly executed in blank, in form satisfactory to the Purchaser and with all required stock transfer tax stamps affixed;
- (b) executed counterparts of each Ancillary Agreement to which the Company is a party;
- (c) a true and complete copy, certified by the Secretary or an Assistant Secretary of the Company, of the resolutions duly and validly adopted by the Board of Directors of the Company evidencing its authorization of the execution and delivery of this Agreement and the Ancillary Agreements and the consummation of the Transactions;
- (d) a certificate of the Secretary or an Assistant Secretary of the Company certifying the names and signatures of the officers of the Company authorized to sign this Agreement and the Ancillary Agreements and the other documents to be delivered hereunder and thereunder;
- (e) a certificate of a duly authorized officer of the Company certifying as to the matters set forth in Section 8.02(b); and
- (f) a copy of the Confirmation Order and a copy of the docket sheet for the Bankruptcy Cases showing its entry.

SECTION 2.05. Closing Deliveries by the Purchaser. At or prior to the Closing, the Purchaser shall deliver to the Company:

- (a) the Purchase Price by wire transfer in immediately available funds to the Purchase Price Bank Account;
- (b) executed counterparts of each Ancillary Agreement to which the Purchaser is a party;
- (c) a true and complete copy, certified by the Secretary or an Assistant Secretary of the Purchaser, of the resolutions duly and validly adopted by the Board of Directors of the Purchaser evidencing its authorization of the execution and delivery of this Agreement and the Ancillary Agreements to which the Purchaser is a party and the consummation of the Transactions;
- (d) a certificate of the Secretary or an Assistant Secretary of the Purchaser certifying the names and signatures of the officers of the Purchaser authorized to sign this Agreement and the Ancillary Agreements and the other documents to be delivered hereunder and thereunder; and
- (e) a certificate of a duly authorized officer of the Purchaser certifying as to the matters set forth in Section 8.01(a).

SECTION 2.06. Certificate of Incorporation and Bylaws. At the Closing,

- (a) the certificate of incorporation of the Company shall be amended so as to read in its entirety as set forth on Exhibit B and, as so amended, shall be the Restated Certificate of Incorporation of the Reorganized Company; and
- (b) the bylaws of the Company shall be amended so as to read in their entirety as set forth in Exhibit C and, as so amended, shall be the Bylaws of the Reorganized Company.

SECTION 2.07. Directors and Officers. As of the Closing, the officers of the Company shall be the officers of the Reorganized Company. No later than the day after the Confirmation Date, the Purchaser shall deliver to the Company a list of the directors of the Reorganized Company, who shall be the directors of the Reorganized Company immediately following the Closing; provided that the Company shall not have objected in writing to any one or more individuals appearing on such list within five days of the Company's receipt thereof, in which case the directors of the Reorganized Company shall be as agreed to by the parties hereto.



ARTICLE III  
REPRESENTATIONS AND WARRANTIES  
OF THE COMPANY

Except as set forth in the Disclosure Schedule (which Disclosure Schedule shall be arranged in sections corresponding to the numbered and lettered sections of this Article III, and any information disclosed in any such section of the Disclosure Schedule shall be deemed to be disclosed only for purposes of the corresponding section of this Article III, unless it is reasonably apparent that the disclosure contained in such section of the Disclosure Schedule contains enough information regarding the subject matter of other representations and warranties contained in this Article III as to qualify or otherwise apply to such other representations and warranties, in which case the information disclosed shall also be deemed to be disclosed for purposes of such other representations and warranties) or as disclosed in Company SEC Documents prior to the date of this Agreement, the Company hereby represents and warrants to the Purchaser as follows:

SECTION 3.01. Organization, Authority and Qualification of the Company. (a) Except as a result of the commencement of the Bankruptcy Cases, the Company is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and, subject to the entry of the Confirmation Order, has all necessary corporate power and authority to enter into this Agreement and the Ancillary Agreements, to carry out its obligations hereunder and thereunder, and to consummate the Transactions. The Company has all necessary corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Business as it is currently conducted. The Company is duly licensed or qualified to do business as a foreign corporation and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its respective business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed, qualified or in good standing: (a) has resulted from the commencement or continuance of the Bankruptcy Cases; or (b) would not reasonably be expected to have a Material Adverse Effect. Subject to the entry of the Confirmation Order, the execution and delivery of this Agreement and the Ancillary Agreements by the Company, the performance by the Company of its obligations hereunder and thereunder, and the consummation by the Company of the Transactions have been duly authorized by all requisite corporate action on the part of the Company and its stockholders, and no other corporate action or proceeding on the part of the Company is necessary to authorize the execution and delivery of this Agreement and the Ancillary Agreements, or the consummation of the Transactions. This Agreement has been, and upon their execution, the Ancillary Agreements shall have been, duly executed and delivered by the Company, and (assuming due authorization, execution and delivery by the Purchaser), subject to the entry of the Confirmation Order, this Agreement constitutes, and, upon their execution, the Ancillary Agreements shall constitute, legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, subject to the Enforceability Exceptions.

(b) The minute books of the Company contain records, which are accurate in all material respects, of all meetings and all actions taken by the stockholders, Board of Directors

and all committees of the Board of Directors of the Company. Complete and accurate copies of all such minute books have been provided or made available to the Purchaser.

SECTION 3.02. Subsidiaries. (a) Section 3.02(a) of the Disclosure Schedule sets forth a true and complete list of all of the Subsidiaries, listing for each Subsidiary its name, type of entity, the jurisdiction of its incorporation or organization, its authorized capital stock, partnership capital or equivalent, the number and type of its issued and outstanding shares of capital stock, partnership interests or similar ownership interests and the current ownership of such shares, partnership interests or similar ownership interests.

(b) Other than the Subsidiaries and those entities set forth in Section 3.02(b) of the Disclosure Schedule, there are no other corporations, partnerships, joint ventures, associations or other entities in which the Company or any Subsidiary owns, of record or beneficially, any direct or indirect equity or other similar interest or any right (contingent or otherwise) to acquire the same that are material to the Business.

(c) Except as a result of the commencement of the Bankruptcy Cases, each Subsidiary that is a corporation: (i) is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, (ii) has all necessary corporate power and authority to own, operate or lease the properties and assets owned, operated or leased by such Subsidiary and to carry on its business as it is currently conducted by such Subsidiary and (iii) is duly licensed or qualified to do business as a foreign corporation and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so organized, existing or in good standing or to have such power and authority or license or qualification (A) has resulted from the commencement or continuance of the Bankruptcy Cases, or (B) would not reasonably be expected to have a Material Adverse Effect. Except as a result of the commencement of the Bankruptcy Cases, each Subsidiary that is not a corporation: (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, (ii) has all necessary entity power and authority to own, operate or lease the properties and assets owned, operated or leased by such Subsidiary and to carry on its business as it has been and is currently conducted by such Subsidiary and (iii) is duly licensed or qualified to do business as a foreign entity and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except, in each case, to the extent that the failure to be so organized, existing or in good standing or to have such power and authority or license or qualification (A) has resulted from the commencement or continuance of the Bankruptcy Cases, or (B) would not reasonably be expected to have a Material Adverse Effect.

(d) Subject to the entry of the Confirmation Order, all corporate actions taken by each Subsidiary with respect to the Transactions have been duly authorized and no Subsidiary has taken any action with respect to the Transactions that in any respect conflicts with, constitutes a default under or results in a violation of any provision of its Certificate of Incorporation, Articles of Incorporation or Bylaws (or similar organizational documents). True and complete copies of the Certificate of Incorporation and Bylaws (or similar organizational documents), in each case as in effect on the date hereof, of each Subsidiary have been delivered or made available by the Company to the Purchaser.

(e) Except as would not reasonably be expected to have a Material Adverse Effect, the minute books of the Subsidiaries contain accurate records of all meetings and accurately reflect all actions taken by the stockholders, Board of Directors and all committees of the Board of Directors of the Company.

SECTION 3.03. Capitalization. (a) Upon the Closing, the Reorganized Company Shares will constitute all the issued and outstanding shares of capital stock of the Reorganized Company. Upon the Closing, the Reorganized Company Shares will be duly authorized and validly issued and will be fully paid and nonassessable and will not have been issued in violation of any preemptive rights. Upon the Closing, there will be no options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the shares or obligating the Reorganized Company to issue or sell any shares, or any other interest, in the Reorganized Company. As of the Closing, there will be no outstanding contractual obligations of the Reorganized Company to repurchase, redeem or otherwise acquire any shares of common stock or to provide funds to, or make any investment (in the form of a loan, capital contribution or otherwise) in, any other Person. As of the Closing, the Reorganized Company Shares will be owned of record and beneficially by the Purchaser and the Stockholders free and clear of all Encumbrances (other than Encumbrances arising under this Agreement, the Reorganized Company's Certificate of Incorporation, the Reorganized Company's Bylaws, the Stockholders Agreement and applicable federal and state securities Laws). Upon consummation of the Transactions and registration of the Purchaser Shares in the name of the Purchaser in the stock records of the Reorganized Company, the Purchaser, assuming it shall have purchased the Purchaser Shares for value in good faith and without notice of any adverse claim, will, together with the Stockholders, own all the issued and outstanding capital stock of the Reorganized Company free and clear of all Encumbrances (other than Encumbrances arising under this Agreement, the Reorganized Company's Certificate of Incorporation, the Reorganized Company's Bylaws, the Stockholders Agreement and applicable federal and state securities Laws). Upon consummation of the Transactions, the Purchaser Shares will be fully paid and nonassessable.

(b) Except as set forth in Section 3.03(b) of the Disclosure Schedule, all the outstanding shares of capital stock of each Subsidiary that is a corporation are validly issued, fully paid, nonassessable and except with respect to wholly-owned Subsidiaries, free of preemptive rights and are owned by the Company, whether directly or indirectly, free and clear of all Encumbrances. There are no options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the capital stock of any Subsidiary or obligating the Company or any Subsidiary to issue or sell any shares of capital stock of or any other interests in any Subsidiary. There are no outstanding contractual obligations of the Company or any Subsidiary to acquire any shares of common stock or to provide funds to, or make any investment (in the form of a loan, capital contribution or otherwise) in, any other Person. Except as set forth in Section 3.03(b) of the Disclosure Schedule, there are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any shares of capital stock of or any other interests in any Subsidiary.

SECTION 3.04. No Conflict. Subject to the entry of the Confirmation Order, and assuming that all consents, approvals, authorizations and other actions described in Section 3.05

have been obtained, all filings and notifications listed in Section 3.05 of the Disclosure Schedule have been made and any applicable waiting period has expired or been terminated, and except as may result from any facts or circumstances relating solely to the Purchaser, the execution, delivery and performance of this Agreement and the Ancillary Agreements and the consummation of the Transaction by the Company do not and will not, except as set forth in Section 3.04 of the Disclosure Schedule, (a) violate, conflict with or result in the breach of any provision of the certificate of incorporation, articles of incorporation or bylaws (or similar organizational documents) of the Company or any Subsidiary, (b) conflict with or violate any Law or Governmental Order applicable to the Company or any Subsidiary or any of their respective assets, properties or businesses, or (c) conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance (other than Encumbrances arising under this Agreement and the Ancillary Agreements) on any of the Reorganized Company Shares or any of the Assets pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which the Company or any Subsidiary is a party or by which any of the Reorganized Company Shares or any of such assets or properties is bound or affected, except to the extent that any such rights and such Encumbrances are not enforceable due to operation of the Bankruptcy Code and, except in the case of clauses (b) and (c), as would not reasonably be expected to have a Material Adverse Effect. The Company has complied with all of its obligations under the confidentiality agreement between the Company and the Purchaser dated March 13, 2009 (the "Company Confidentiality Agreement") at all times since its execution.

SECTION 3.05. Governmental Consents and Approvals. The execution, delivery and performance of this Agreement and each Ancillary Agreement by the Company do not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority by the Company or any Subsidiary, except (a) the entry of the Confirmation Order, (b) as described in Section 3.05 of the Disclosure Schedule, (c) compliance with and filing under the pre-merger notification and waiting period requirements of the HSR Act, the Mexican Federal Law of Economic Competition, the Russian Federal Law on Competition Protection No. 135-FZ (July 2006), the Chinese Anti-Monopoly Law of 2008 and any compliance with, filings under or approval required under, the antitrust laws of any other relevant jurisdiction, (d) where failure to obtain such consent, approval, authorization, order or action, or to make such filing or notification, would not (i) reasonably be expected to have a Material Adverse Effect or (ii) prevent or materially delay the consummation by the Company of the Transactions or (e) as may be necessary as a result of any facts or circumstances relating solely to the Purchaser or any of its Affiliates.

SECTION 3.06. SEC Filings; Financial Statements; Undisclosed Liabilities.  
(a) The Company has filed with the SEC all Company SEC Documents. Except to the extent amended or superseded by a subsequent filing with the SEC made prior to the date hereof, as of their respective dates (and if so amended or superseded, then on the date of such filing prior to the date hereof), the Company SEC Documents (i) did not, and in the case of Subsequent SEC Filings will not, contain any untrue statement of a material fact or omit, or in the case of Subsequent SEC Filings will not omit, to state a material fact required to be stated therein or

necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, and (ii) complied, and in the case of Subsequent SEC Filings will comply, in all material respects with the applicable requirements of the Exchange Act and the Securities Act, as the case may be. None of the Subsidiaries is required to file any forms, reports or other documents with the SEC.

(b) Each of the financial statements contained or to be contained in the Company SEC Documents (including, in each case, any related notes and schedules) has (i) at the time at which they were prepared, been prepared from, and in accordance with, the books and records of the Company and the consolidated Subsidiaries, and (ii) been prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto and in the case of unaudited quarterly financial statements, as permitted by Form 10-Q under the Exchange Act) and fairly presents in all material respects the consolidated financial position and the consolidated results of operations and cash flows of the Company and the consolidated Subsidiaries as at the dates and for the periods covered thereby, except that the unaudited interim financial statements may not contain footnotes and were or are subject to normal year-end adjustments.

SECTION 3.07. Conduct in the Ordinary Course; Absence of Certain Changes, Events and Conditions. Other than as a result of or in connection with the Bankruptcy Cases, since September 27, 2008, except as contemplated by this Agreement or as otherwise disclosed in the Company SEC Documents, the Business has been conducted in the ordinary course in all material respects. As amplification and not limitation of the foregoing, except as set forth in Section 3.07 of the Disclosure Schedule and except with respect to Sections 5.01(b)(i), (ii), (iii), (v), (ix), (x), (xi), (xiii), (xv) and (xviii), none of the Company or any Subsidiary has taken, since September 27, 2008, any action that, if taken after the date of this Agreement, would constitute a breach of any covenants set forth in Section 5.01(b).

SECTION 3.08. Litigation. Except for the Bankruptcy Cases, there is no Action by or against the Company or any Subsidiary or affecting any of the Assets or the Business pending before any Governmental Authority (or, to the Company's knowledge, threatened to be brought by or before any Governmental Authority) that would reasonably be expected to have a Material Adverse Effect. Except for the Bankruptcy Cases, none of the Company, the Subsidiaries or any of their respective assets or properties, including the Assets, is subject to any Governmental Order (nor, to the Company's knowledge, are there any such Governmental Orders threatened to be imposed by any Governmental Authority) which would reasonably be expected to have a Material Adverse Effect.

SECTION 3.09. Compliance with Laws. Except as would not reasonably be expected to have a Material Adverse Effect, (a) the Company and the Subsidiaries have each conducted and continue to conduct the Business in accordance with all Laws and Governmental Orders applicable to the Company or any Subsidiary or the Business, (b) neither the Company nor any Subsidiary is in violation of any such Law or Governmental Order, and (c) neither the Company nor any Subsidiary has received any written notice that any violation of any such Law or Governmental Order is being or could reasonably be expected to be alleged.

SECTION 3.10. Permits. Except as would not have a Material Adverse Effect, (a) the Company and the Subsidiaries have obtained and possess all Permits and have made all registrations or filings with or notices to any Governmental Authority necessary for the lawful conduct of the Business as presently conducted and operated or necessary for the lawful ownership of their properties and assets or the operation of the Business as presently conducted and operated; (b) each such Permit is valid and in full force and effect and the Company and the Subsidiaries are in material compliance with all such Permits and have made such Permits available to the Purchaser; (c) any applications for the renewal of any such Permit that are due prior to the Closing will be timely made or filed by the Company or the applicable Subsidiary prior to the Closing; (d) no proceeding to modify, suspend, revoke, withdraw, terminate or otherwise limit any such Permit is pending or threatened, and there is no valid basis for any such proceeding; and (e) no administrative or governmental action or proceeding has been taken in connection with the expiration, continuance or renewal of any such Permit, and there is no valid basis for any such proceeding.

SECTION 3.11. Environmental Matters. Except as set forth in a list that has been previously provided or made available by the Company to the Purchaser:

(a) Except as would not reasonably be expected to result in a Material Adverse Effect:

(i) The Company and each Subsidiary are in compliance, and for the past three years have been in compliance with, all applicable Environmental Laws and all Environmental Permits, and all past noncompliance with Environmental Laws or Environmental Permits has been resolved without any pending, ongoing or future obligation, cost or liability.

(ii) There has been no Release of any Hazardous Material on any of the Real Property in connection with the conduct of the Business by the Company or any Subsidiary or, to the Company's knowledge, prior to the conduct of such Business, or, during the period of the Company's or any Subsidiary's ownership, lease, use or occupancy thereof, on any property formerly owned, leased, used or occupied by the Company or any Subsidiary, that can reasonably be expected to give rise to any obligation to report or conduct any Remedial Action with respect to such Release pursuant to the requirements of any Environmental Law.

(iii) Neither the Company nor any Subsidiary is conducting, and none of them has undertaken or completed, any Remedial Action relating to any Release or threatened Release of any Hazardous Material at the Real Property or at any other site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law or Environmental Permit.

(iv) None of the Real Property is listed or, to the knowledge of the Company, is proposed for listing on the National Priorities List or CERCLIS or on any analogous federal, state or local list.