

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

In re:

BOOMERANG TUBE, LLC, a Delaware limited  
liability company, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 15-11247 (MFW)

Jointly Administered

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**SOLICITATION PROCEDURES**

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On August 14, 2015, the United States Bankruptcy Court for the District of Delaware (the “**Court**”) entered the *Order (A) Approving the Disclosure Statement, (B) Approving the Solicitation Procedures, (C) Approving the Form of Ballots and Notices in Connection Therewith, (D) Establishing the Plan Confirmation Schedule, and (E) Granting Related Relief* (the “**Disclosure Statement Order**”) that, among other things: (a) approved the adequacy of the *Disclosure Statement for Debtors’ Amended Joint Prearranged Chapter 11 Plan Dated August 13, 2015* (as may be amended, supplemented, or otherwise modified from time to time and including all exhibits and supplements thereto, the “**Disclosure Statement**”) filed in support of the *Debtors’ Amended Joint Prearranged Chapter 11 Plan Dated August 13, 2015* (as may be amended, supplemented, or otherwise modified from time to time and including all exhibits thereto, the “**Plan**”); and (b) authorized the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) to solicit acceptances or rejections of the Plan from Holders of Claims who are (or may be) entitled to vote under the Plan.<sup>2</sup>

**A. The Voting Record Date**

The Court has approved August 10, 2015 at 5:00 p.m. (prevailing Eastern Time), as the record date for purposes of determining which Holders of Claims are entitled to vote on the Plan (the “**Voting Record Date**”).

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Boomerang Tube, LLC (9415); BTCSP, LLC (7632); and BT Financing, Inc. (6671). The location of the Debtors’ corporate headquarters is 14567 North Outer Forty, Suite 500, Chesterfield, Missouri 63017.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan, the Disclosure Statement, or the Disclosure Statement Order, as applicable. Copies of the Plan and the Disclosure Statement may be obtained: (a) from the Solicitation Agent at no charge by (i) accessing the Debtors’ restructuring website at [www.donlinrecano.com/bt](http://www.donlinrecano.com/bt), (ii) emailing [DRCVote@donlinrecano.com](mailto:DRCVote@donlinrecano.com), (iii) writing to the Solicitation Agent at Donlin, Recano & Company, Inc., Attention: Voting Department, P.O. Box 2034, Murray Hill Station, New York, NY 10156-0701, or (iv) calling the Solicitation Agent at (212) 771-1128; or (b) for a fee via PACER at <http://www.deb.uscourts.gov>.

## **B. The Voting Deadline**

The Court has approved September 14, 2015, at 5:00 p.m. (prevailing Eastern Time), as the voting deadline (the “**Voting Deadline**”) for the Plan. The Debtors may extend the Voting Deadline, in their discretion, without further order of the Court. To be counted as votes to accept or reject the Plan, all ballots sent to Holders of Claims (“**Ballots**”) must be properly executed, completed, and delivered in accordance with the instructions set forth in the Ballots by (1) first class mail, (2) overnight courier, or (3) personal delivery so that they are **actually received**, in any case, no later than the Voting Deadline by Donlin, Recano & Company, Inc. (the “**Solicitation Agent**”), the administrative advisor retained by the Debtors in the chapter 11 cases. Delivery of a Ballot to the Solicitation Agent by facsimile, email, or any other electronic means will not be valid.

## **C. The Solicitation Package and Other Notices**

1. **The Solicitation Package.** The following materials shall constitute the solicitation package (the “**Solicitation Package**”):

(a) the Disclosure Statement, as approved by the Court, with all exhibits thereto, including the Plan and the exhibits to the Plan;

(b) the Solicitation Procedures;

(c) the *Notice of Order (A) Approving the Disclosure Statement, (B) Approving the Solicitation Procedures, (C) Approving the Form of Ballots and Notices in Connection Therewith, (D) Establishing the Plan Confirmation Schedule, and (E) Granting Related Relief*, substantially in the form attached as **Exhibit 2** to the Disclosure Statement Order (the “**Confirmation Hearing Notice**”);

(d) a cover letter, substantially in the form attached as **Exhibit 3** to the Disclosure Statement Order: (a) describing the contents of the Solicitation Package; and (b) urging the Holders of Claims in each of the Voting Classes to vote to accept the Plan;

(e) an appropriate form of Ballot, substantially in the form of the Ballot attached as **Exhibit 4** to the Disclosure Statement Order;

(f) with respect to Class 6 only, the Committee Letter; and

(g) any supplemental documents the Debtors file with the Court and any documents that the Court orders to be included in the Solicitation Package.

## **2. Distribution of the Solicitation Package.**

The Debtors shall cause the Solicitation Package (other than Ballots, the Debtors’ cover letter, and Committee Letter, where applicable) to be provided in CD-ROM format and the Ballots, the Debtors’ cover letter, and Committee Letter, where applicable, shall be provided in paper format. Paper copies of the documents otherwise provided may be obtained by contacting the Solicitation Agent by: (a) emailing DRCVote@donlinrecano.com; (b) writing Donlin,

Recano & Company, Inc., Attention: Voting Department, P.O. Box 2034, Murray Hill Station, New York, NY 10156-0701; or (c) calling (212) 771-1128.

The Debtors shall serve, or cause to be served, all of the materials in the Solicitation Package (including the Ballots) on Holders of Claims entitled to vote on the Plan. In addition, the Debtors shall serve, or cause to be served, all of the materials in the Solicitation Package (other than the Ballots) on: (a) the U.S. Trustee; (b) counsel for the Committee; and (c) any party that has requested notice pursuant to Bankruptcy Rule 2002.

3. **Notices in Respect of Unclassified Claims, Classes Presumed to Accept the Plan, and Classes Deemed to Reject the Plan.** Holders of Claims that are not classified in accordance with section 1123(a)(1) of the Bankruptcy Code or who are not entitled to vote because they are Unimpaired or otherwise presumed to accept the Plan under section 1126(f) of the Bankruptcy Code will receive only the *Notice of Non-Voting Status with Respect to Unclassified Claims and Unimpaired Classes Conclusively Presumed to Accept the Plan*, substantially in the form attached as **Exhibit 5** to the Disclosure Statement Order. Such notice will instruct these Holders as to how they may obtain copies of the documents contained in the Solicitation Package (excluding Ballots). Holders of Claims who are not entitled to vote because they are deemed to reject the Plan under section 1126(g) of the Bankruptcy Code will receive only the *Notice of Non-Voting Status With Respect to Classes Deemed to Reject the Plan*, substantially in the form attached as **Exhibit 6** to the Disclosure Statement Order. These notices will instruct these Holders as to how they may obtain copies of the documents contained in the Solicitation Package (excluding Ballots).

4. **Notices in Respect of Executory Contracts and Unexpired Leases.** Counterparties to Executory Contracts and Unexpired Leases will receive: (a) either the Assumption Notice, substantially in the form attached as **Exhibit 7** to the Disclosure Statement Order, or the Rejection Notice, substantially in the form attached as **Exhibit 8** to the Disclosure Statement Order, as applicable, notifying such counterparty of the forthcoming assumption, assumption and assignment, or rejection, as applicable, of their Executory Contract or Unexpired Lease (and any Cure Obligation required pursuant to assumption of such contract or lease pursuant to section 365 of the Bankruptcy Code) as soon as reasonably practicable after the Solicitation Date; and (b) the Confirmation Hearing Notice. Counterparties to Executory Contracts and Unexpired Leases shall be given until the earlier of (a) the Confirmation Date or, (b) the date that is no more than fourteen (14) days from the service of the applicable Assumption Notice or Rejection Notice listing such Executory Contract or Unexpired Lease, to file an objection to the Debtors' proposed assumption, rejection, and/or cure amount, as applicable.

5. **The Plan Supplement.** At least ten (10) days before the Confirmation hearing, the Debtors intend to file the Plan Supplement. If the Plan Supplement is updated or otherwise modified, such modified or updated documents will be made available on the Debtors' restructuring website. The Debtors will not serve the Plan Supplement, however, parties may obtain a copy of the Plan Supplement from the Solicitation Agent by: (a) visiting the Debtors' restructuring website at <http://www.donlinrecano.com/bt>; (b) writing Donlin, Recano & Company, Inc., Attention: Voting Department, P.O. Box 2034, Murray Hill Station, New York, NY 10156-0701; or (c) calling (212) 771-1128.

**D. Voting and Tabulation Procedures**

1. **Holders of Claims Entitled to Vote.** Holders of Claims in the Voting Classes shall be entitled to vote in the amounts proposed to be Allowed under the Plan or the amounts allowed (temporarily or otherwise) pursuant to a Resolution Event unless otherwise ordered by the Court or agreed upon by the Debtors and the Holder of such claim. With respect to Class 3 (ABL Facility Claims) and Class 4 (Term Loan Facility Claims), immediately following the close of business on the Voting Record Date, the ABL Facility Agent or the Term Loan Agent, as applicable, will furnish to the Debtors and the Solicitation Agent a list of the ABL Facility Lenders and Term Loan Lenders, including their mailing addresses, and principal claim amounts due and owing as of the Voting Record Date, which shall be used as the amount that each ABL Facility Lender or Term Loan Lender shall be entitled to vote on the Plan. The Claim amount established herein shall control for voting purposes only and shall not constitute the Allowed amount of any Claim. Moreover, any amounts filled in on Ballots by the Debtors through the Solicitation Agent, as applicable, are not binding for purposes of allowance and distribution.

2. **Resolution of Disputed Claims for Voting Purposes; Resolution Event.** Holders of Disputed Claims will receive the Disputed Claim Notice, substantially in the form attached as **Exhibit 9**, and the Confirmation Hearing Notice. The Holder of a Disputed Claim cannot vote any disputed portion of its Claim unless one or more of the following events have taken place at least three (3) Business Days before the Voting Deadline: (a) an order of the Court is entered allowing the Disputed Claim pursuant to section 502(b) of the Bankruptcy Code, after notice and a hearing; (b) an order of the Court is entered temporarily allowing the Disputed Claim for voting purposes only pursuant to Bankruptcy Rule 3018(a), after notice and a hearing; (c) a stipulation or other agreement is executed between the Holder of the Disputed Claim and the Debtors allowing such Disputed Claim in an agreed upon amount; (d) a stipulation or other agreement is executed between the Holder of the Disputed Claim and the Debtors temporarily allowing the Holder of such Claim to vote its Claim in an agreed upon amount; or (e) the pending objection is voluntarily withdrawn by the objecting party (each, a “**Resolution Event**”). No later than two (2) Business Days after a Resolution Event, the Debtors shall cause the Solicitation Agent to distribute a Solicitation Package and a pre-addressed, postage pre-paid envelope to the relevant Holder, which must be returned according to the instructions on the Ballot provided to such Holder by no later than the Voting Deadline. Any Holder of a Claim allowed or temporarily allowed by a Resolution Event may vote only on account of the allowed or temporarily allowed portion of its Claim.

**E. Voting and Ballot Tabulation Procedures.** The following voting procedures and standard assumptions shall be used in tabulating Ballots, subject to the Debtors’ right to waive any of the below specified requirements for completion and submission of Ballots so long as such requirement is not otherwise required by the Bankruptcy Code, Bankruptcy Rules, or Local Rules:

(a) Ballots received after the Voting Deadline shall be rejected as invalid and, therefore, shall not count in connection with Confirmation of the Plan, except as otherwise provided in the Solicitation Procedures, or as otherwise determined by the Debtors in their sole discretion;

(b) the Solicitation Agent will date- and time-stamp all Ballots when received. The Solicitation Agent shall retain the original Ballots and an electronic copy of the same for a period of one year after the Effective Date, unless otherwise ordered by the Court;

(c) the method of delivery of Ballots to be sent to the Solicitation Agent is at the election and risk of each Holder, and except as otherwise provided, a Ballot will be deemed delivered only when the Solicitation Agent actually receives the original executed Ballot;

(d) an original executed Ballot bearing an original signature is required to be submitted by the entity submitting such Ballot. Delivery of a Ballot to the Solicitation Agent by facsimile, email, or any other electronic means will not be valid;

(e) no Ballot should be sent to the Debtors, the Debtors' agents (other than the Solicitation Agent), or the Debtors' financial or legal advisors, and if so sent such Ballot will not be counted;

(f) if a Proof of Claim contains any amount that is either or both contingent or unliquidated, as determined by the Debtors and Solicitation Agent in their reasonable discretion, than any vote cast on account such Claim shall only be tabulated with respect to the non-contingent and liquidated amount set forth in the Proof of Claim, as determined by the Debtors and Solicitation Agent in their reasonable discretion, or \$1.00 if no portion of the Claim is determined to be non-contingent and liquidated;

(g) if multiple Ballots are received from the same Holder with respect to the same Claim prior to the Voting Deadline, the last properly executed Ballot timely received will be deemed to reflect such Holder's intent and will supersede and revoke any prior Ballot;

(h) Holders must vote all of their Claims within a particular Class either to accept or reject the Plan and may not split any votes. Accordingly, a Ballot that partially rejects and partially accepts the Plan will not be counted. Further, to the extent there are multiple Claims within the same Class held by a single Holder, the Debtors may, in their discretion, aggregate the Claims of any particular Holder within a Class for voting purposes, and the vote related to such Claims will be treated as a single vote to accept or reject the Plan;

(i) a person signing a Ballot in his or her capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity of a Holder of a Claim must indicate such capacity when signing;

(j) the Debtors, subject to contrary order of the Court, may waive any defects or irregularities, including receipt of the Ballot after the Voting Deadline, as to any particular irregular Ballot at any time, either before or after the close of voting, and any such waivers will be documented in the Voting Report, *provided, however*, that the lack of a signature on a Ballot will be a defect that cannot be waived;

(k) neither the Debtors, nor any other entity, will be under any duty to provide notification of defects or irregularities with respect to delivered Ballots other than as provided in

the Voting Report, nor will any of them incur any liability for failure to provide such notification;

(l) unless waived or as ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured prior to the Voting Deadline or such Ballots will not be counted;

(m) in the event a designation is requested by a party in interest under section 1126(e) of the Bankruptcy Code, the Court will determine whether any vote to accept and/or reject the Plan cast with respect to such Claim will be counted for purposes of determining whether the Plan has been accepted and/or rejected;

(n) subject to any order of the Court, the Debtors reserve the right to reject any and all Ballots not in proper form, the acceptance of which, in the opinion of the Debtors, would not be in accordance with the provisions of the Bankruptcy Code or the Bankruptcy Rules; *provided, however*, that any such rejections will be documented in the Voting Report;

(o) if a Claim has been estimated or otherwise Allowed for voting purposes only by order of the Court, such Claim shall be temporarily allowed in the amount so estimated or Allowed by the Court for voting purposes only, and not for purposes of allowance or distribution; *provided, however*, that if a Claim has been estimated by the Court for purposes of allowance and distribution pursuant to section 502(c) of the Bankruptcy Code, such allowance shall be for both voting and distribution purposes;

(p) if an objection to a Claim is filed, such Claim shall be treated in accordance with the procedures governing Disputed Claims set forth in the Solicitation Procedures;

(q) the following Ballots shall not be counted in determining the acceptance or rejection of the Plan: (i) any Ballot that is illegible or contains insufficient information to permit the identification of the Holder of such Claim; (ii) any Ballot cast by an entity that does not hold a Claim in a Voting Class; (iii) any unsigned Ballot or Ballot lacking an original signature; (iv) any Ballot not marked to accept or reject the Plan or marked both to accept and reject the Plan; and (v) any Ballot submitted by any entity not entitled to vote pursuant to the procedures described herein;

(r) after the Voting Deadline, no Ballot may be withdrawn or modified without the prior written consent of the Debtors; and

(s) the Debtors are authorized to enter into stipulations with the Holder of any Claim agreeing to the amount of a Claim for voting purposes.

**F.     Reservation**

The Debtors reserve the right to make non-substantive or immaterial changes to the Disclosure Statement, Plan, Ballots, Confirmation Hearing Notice, and related documents without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes among the Disclosure Statement, the Plan, and any other materials in the Solicitation Package before their distribution.

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