# IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

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In re	•	Chapter 11
Contech U.S., LLC, et al., <sup>2</sup>	:	Case No. 09-42392 (SWR)
Debtors.	:	(Jointly Administered)
	x	

TO: ALL CREDITORS, EQUITY INTEREST HOLDERS, AND POTENTIAL HOLDERS OF ADMINISTRATIVE CLAIMS UNDER BANKRUPTCY CODE SECTION 503(b)(9) AGAINST THE DEBTORS

PLEASE TAKE NOTICE THAT PURSUANT TO RULE 3003-1 OF THE LOCAL RULES OF THE BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF MICHIGAN, A DEADLINE OF JUNE 8, 2009 HAS BEEN ESTABLISHED AS THE GENERAL CLAIMS BAR DATE (the "General Bar Date"), in the chapter 11 cases of the above-captioned debtors and debtors in possession (collectively, the "Debtors"). Except as described below, Local Rule 3003-1 requires all Entities, as that term is defined in section 101(15) of 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), including persons, estates, trusts and the United States Trustee (but excluding governmental units), that have or assert any Claims (defined below) against any of the Debtors that arose prior to January 30, 2009, including claims asserted under section 503(b)(9) of the Bankruptcy Code for goods delivered to the Debtors in the twenty days prior to January 30, 2009, to file a proof of claim (a copy of a proof of claim form is attached hereto for your convenience) so that such proof of claim is received on or before 5:00 p.m., prevailing Eastern time, on June 8, 2009 by Kurtzman Carson Consultants LLC ("KCC") on the General Bar Date.

## **KEY DEFINITIONS**

As used in this Notice, the term "Entity" has the meaning given to it in section 101(15) of the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), and includes all persons, estates, trusts, Governmental Units and the Office of the United States Trustee.

As used in this Notice, the term "Governmental Unit" has the meaning given to it in section 101(27) of the Bankruptcy Code and includes the United States; states; commonwealths; districts; territories; municipalities; foreign states; or departments, agencies or instrumentalities of the foregoing (but not including a United States trustee while serving as a trustee under the Bankruptcy Code).

The Debtors are the following three entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): MAG Contech, LLC (5469), Contech, LLC (5470) and Contech U.S., LLC (5471). The mailing address of each of the Debtors is 950 Trade Centre Way, No. 200, Portage, Michigan 49002.



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As used in this Notice, the term "Claim" shall mean, as to or against any of the Debtors and in accordance with section 101(5) of the Bankruptcy Code: (a) any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

## ENTITIES THAT MUST FILE PROOFS OF CLAIMS BY THE GENERAL BAR DATE

The following Entities must file proofs of claim on or before the General Bar Date:

- (a) any Entity whose Claim against a Debtor is not listed in the applicable Debtor's Schedules (a copy of such schedules is available online at www.kccllc.com and may be requested from KCC) or is listed as "disputed," "contingent" or "unliquidated" and that desires to participate in any of these chapter 11 cases or share in any distribution in any of these chapter 11 cases; and
- (b) any Entity that believes its Claim is improperly classified in the Schedules or is listed in an incorrect amount and that desires to have its Claim allowed in a classification or amount other than that identified in the Schedules.
- (c) any Entity that believes it has a Claim under section 503(b)(9) of the Bankruptcy Code for the value of goods received by the Debtors in the ordinary course of the Debtors' business within 20 days before January 30, 2009 (a "Section 503(b)(9) Claim").

# ENTITIES NOT REQUIRED TO FILE PROOFS OF CLAIM BY THE GENERAL BAR DATE

The following Entities need not file proofs of claim by the General Bar Date:

- (a) any Entity that already has properly filed a proof of claim against one or more of the Debtors in accordance with the procedures described in this Notice;
- (b) any Entity (i) whose Claim against a Debtor is not listed as "disputed," "contingent" or "unliquidated" in the Schedules **and** (ii) that agrees with the nature, classification and amount of its Claim as identified in the Schedules:
- (c) any Entity whose Claim against a Debtor has previously been allowed by, or paid pursuant to, an order of the Court; and
- (d) any Entity asserting a claim for rejection damages, as to which a bar date will be set by further order of the Court (including any prior order establishing such bar dates for particular rejected contracts).

## **Requirement to File Proofs of Interest**

Any Entity holding an interest in any Debtor (an "<u>Interest Holder</u>"), which interest is based exclusively upon the ownership of common or preferred stock in a corporation, a membership interest in a limited liability partnership or warrants or rights to purchase, sell or subscribe to such a security or interest (any such security or interest being referred to in this Notice as an "<u>Interest</u>"), must file a proof of interest on or before the General Bar Date.

## **CONSEQUENCES OF FAILURE TO FILE PROOF OF CLAIM**

Any Entity that is required to file a proof of claim, but that fails to do so, by the General Bar Date described in this Notice, shall be forever barred, estopped and enjoined from the following:

- (a) asserting any timely Claim against the Debtors that the Entity has that (i) is in an amount that exceeds the amount, if any, that is identified in the Schedules on behalf of such Entity as undisputed, noncontingent and liquidated, or (ii) is of a different nature or a different classification than any Claim identified in the Schedules on behalf of such Entity (any such Claim being referred to in this Notice as an "Unscheduled Claim"); or
- (b) voting upon, or receiving distributions under, any plan or plans of reorganization or liquidation in these chapter 11 cases in respect of an Unscheduled Claim.

If it is unclear from the Schedules whether your Claim is disputed, contingent or unliquidated as to amount or is otherwise properly listed and classified, you must file a proof of claim on or before the General Bar Date. Any Entity that relies on the information in the Schedules bears responsibility for determining that its Claim is accurately listed therein.

## PROCEDURE FOR FILING PROOFS OF CLAIM

## A. General Procedures for Filing Claims

For any Claim, a person or entity holding such Claim must submit a signed original of a completed proof of claim (a copy of which is attached here for convenience), together with any accompanying or supporting documentation, to the address set forth in D. below so as to be received no later than 5:00 p.m., Prevailing Eastern Time, on the General Bar Date.

Proofs of claim must include all documentation required by Bankruptcy Rules 3001(c) and 3001(d), including an original or a copy of any written document that forms the basis of the Claim or, for secured Claims, evidence that the alleged security interest has been perfected.

## B. Contents of Section 503(b)(9) Claim Requests

Each Section 503(b)(9) Claim must set forth with specificity:

- (a) the amount of the claim;
- (b) the particular Debtor against which the claim is asserted; and
- (c) the value of the goods the claimants assert the Debtor received within the 20 days before the Petition Date.

In addition, the Section 503(b)(9) Claim must include or attach documentation identifying: (i) the particular invoice(s) for which any such Section 503(b)(9) Claim is being asserted; and (ii) any demand to reclaim goods sold to the Debtors under the Bankruptcy Code section 546(c). Finally, any person asserting a Section 503(b)(9) Claim must certify that the goods were sold in the ordinary course of the Debtors' business. If you wish to assert Section 503(b)(9) Claims against more than one Debtor, you must file a separate Section 503(b)(9) Claim Request in the case of each Debtor against which you believe you hold such a claim.

# C. Filing Proofs of Claim Against Multiple Debtors; Requirement to Identify Debtor

Any Entity asserting Claims against more than one Debtor must file a separate proof of claim with respect to and in the case of each such Debtor. In addition, any Entity filing a proof of claim must identify on its proof of claim form the particular Debtor against which its Claim is asserted and that Debtor's case number.

## D. Place of Submission of Claims and Section 503(b)(9) Claims

Proofs of claim may be submitted in person or by courier service, hand delivery or mail addressed to KCC at the following address:

Kurtzman Carson Consultants LLC 2335 Alaska Avenue El Segundo, CA 90245 Attention: Claims Processing Department

Any proof of claim submitted by facsimile or e-mail will not be accepted and will not be deemed filed until the proof of claim is submitted by one of the methods described in the foregoing sentence. Proofs of claim will be deemed filed only when actually received by KCC. If you wish to receive acknowledgement of KCC's receipt of your proof of claim, you must also submit by the General Bar Date and concurrently with submitting your original proof of claim (a) a copy of your original proof of claim and (b) a self-addressed, stamped envelope.

## **ADDITIONAL INFORMATION**

If you require additional information regarding the filing of a proof of claim, you may contact KCC as follows.

Kurtzman Carson Consultants LLC 2335 Alaska Avenue El Segundo, CA 90245 Tel. [Toll-free] (866) 381-9100 Fax. (310) 823-9133

The claims registers for the Debtors will be available for review during normal business hours in KCC's offices at the address identified above.

Dated: March 31, 2009 Detroit, Michigan

## /s/ Christopher A. Grosman

Robert A. Weisberg (P26698) Christopher A. Grosman (P58693) CARSON FISCHER LLP 4111 Andover Road West – Second Floor Bloomfield Hills, Michigan 48302 Telephone: (248) 644-4840

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-and-

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Telephone: (312) 499-6000 Facsimile: (312) 499-6100

Email: richardchesley@paulhastings.com kimberlynewmarch@paulhastings.com

ATTORNEYS FOR DEBTORS AND DEBTORS IN POSSESSION

UNITED STATES BANKRUPTCY COURT Eastern District of Michigan	PROOF OF CLAIM			
Name of Debtor:	Case Numbe	r:		
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.				
Name of Creditor (the person or other entity to whom the debtor owes money or property):	☐ Check this box to indicate that this claim amends a previously filed			
Name and address where notices should be sent:	claim.			
	Court Claim Number:(If known)			
Telephone number:	Filed on:			
Name and address where payment should be sent (if different from above):				
Name and address where payment should be sent (if different from above).	<ul> <li>Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.</li> <li>Check this box if you are the debtor or trustee in this case.</li> </ul>			
Telephone number:				
1. Amount of Claim as of Date Case Filed: \$	5. Amount	of Claim Entitled to		
If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.	Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories,			
If all or part of your claim is entitled to priority, complete item 5.	amount.	e box and state the		
Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		priority of the claim.		
2. Basis for Claim:		support obligations under support obligations under support (a)(1)(A) or (a)(1)(B).		
(See instruction #2 on reverse side.)  3. Last four digits of any number by which creditor identifies debtor:		alaries, or commissions (up		
3a. Debtor may have scheduled account as: (See instruction #3a on reverse side.)	before fi	50*) earned within 180 days ling of the bankruptcy or cessation of the debtor's		
4. Secured Claim (See instruction #4 on reverse side.)  Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.		, whichever is earlier – 11 507 (a)(4).		
Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ☐ Other Describe:		ions to an employee benefit U.S.C. §507 (a)(5).		
Value of Property:\$ Annual Interest Rate%	purchase,	425* of deposits toward lease, or rental of property		
Amount of arrearage and other charges as of time case filed included in secured claim,		or services for personal, family, or household use – 11 U.S.C. §507		
if any: \$ Basis for perfection:	(a)(7).			
Amount of Secured Claim: \$ Amount Unsecured: \$	☐ Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).			
<b>6. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim.	☐ Other – S	pecify applicable paragraph		
7. <b>Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of		of 11 U.S.C. §507 (a)().  Amount entitled to priority:		
a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)	\$	, and the second second		
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.		re subject to adjustment on		
If the documents are not available, please explain:		3		
Date:  Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the crother person authorized to file this claim and state address and telephone number if different from the address above. Attach copy of power of attorney, if any.		FOR COURT USE ONLY		

#### INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.

#### Items to be completed in Proof of Claim form

#### Court, Name of Debtor, and Case Number:

Fill in the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the bankruptcy debtor's name, and the bankruptcy case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is located at the top of the notice.

#### Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

### 1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

#### 2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if the trustee or another party in interest files an objection to your claim.

# 3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

## 3a. Debtor May Have Scheduled Account As:

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

#### 4. Secured Claim:

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

#### 5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

#### 6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

#### 7. Documents:

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). If the claim is based on the delivery of health care goods or services, see instruction 2. Do not send original documents, as attachments may be destroyed after scanning.

#### **Date and Signature:**

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

### \_DEFINITIONS\_

#### Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

#### Creditor

A creditor is a person, corporation, or other entity owed a debt by the debtor that arose on or before the date of the bankruptcy filing. See 11 U.S.C. §101 (10)

#### Claim

A claim is the creditor's right to receive payment on a debt owed by the debtor that arose on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

#### **Proof of Claim**

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

## Secured Claim Under 11 U.S.C. §506(a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.

A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

#### **Unsecured Claim**

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

## Claim Entitled to Priority Under 11 U.S.C. §507(a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

#### Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's taxidentification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

## **Evidence of Perfection**

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

### \_\_\_INFORMATION\_

## Acknowledgment of Filing of Claim

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system (<a href="www.pacer.psc.uscourts.gov">www.pacer.psc.uscourts.gov</a>) for a small fee to view your filed proof of claim.

#### Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.), and any applicable orders of the bankruptcy court.