

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): **March 15, 2021**

**ACCO BRANDS CORPORATION**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of Incorporation)

**001-08454**

(Commission File Number)

**36-2704017**

(I.R.S. Employer Identification No.)

**Four Corporate Drive**

**Lake Zurich, IL**

(Address of principal executive offices)

**60047**

(Zip Code)

Registrant's telephone number, including area code: (847) 541-9500

**Not Applicable**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.01 per share	ACCO	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

## Section 1—Registrant’s Business and Operations

### Item 1.01. *Entry into a Material Definitive Agreement*

On March 15, 2021, in connection with the closing of the previously announced private offer and sale by ACCO Brands Corporation (the “Company”) of \$575 million in aggregate principal amount of its 4.25% senior notes due 2024 (the “Notes”), the Company entered into an indenture, dated as of March 15, 2021 (the “Indenture”), among the Company, as issuer, the guarantors named therein (the “Guarantors”) and Wells Fargo Bank, National Association, as trustee, under which the Notes were issued.

Pursuant to the Indenture, the Company will pay interest on the Notes semiannually on March 15 and September 15 of each year, beginning on September 15, 2021, at a rate of 4.25% per year. On or after March 15, 2024, the Company may redeem all or a part of the Notes at the redemption prices set forth in the Indenture, plus accrued and unpaid interest and additional interest, if any, to, but not including, the applicable redemption date. Prior to March 15, 2024, the Company may redeem all or a part of the Notes at a redemption price equal to 100% of the principal amount thereof plus a “make-whole” premium. In addition, prior to March 15, 2024, the Company may redeem up to 40% of the aggregate principal amount of the Notes with the net cash proceeds from certain equity offerings at the redemption price described in the Indenture, plus any accrued and unpaid interest.

The Notes are fully and unconditionally guaranteed, jointly and severally, on a senior unsecured basis by each of the Company’s existing and future U.S. subsidiaries, other than certain excluded subsidiaries.

The Indenture contains covenants that limit the ability of the Company and its restricted subsidiaries’ ability to, among other things: (i) incur additional indebtedness or issue disqualified stock or, in the case of the Company’s restricted subsidiaries, preferred stock; (ii) create liens; (iii) pay dividends, make certain investments or make other restricted payments; (iv) sell certain assets or merge with or into other companies; (v) enter into transactions with affiliates; and (vi) allow limitations on any restricted subsidiary’s ability to pay dividends, loans, or assets to the Company or other restricted subsidiaries. These covenants are subject to a number of important limitations and exceptions. The Indenture also provides for events of default, which, if any of them occurs, would permit or require the principal, premium, if any, and accrued but unpaid interest on all the then outstanding Notes to be immediately due and payable.

Proceeds from the offering of the Notes were applied toward the payment of the aggregate redemption price for the Company’s \$375 million aggregate principal amount of 5.25% senior notes due 2024 (the “2024 Notes”) as further described in Item 1.02 below, the repayment of approximately \$178 million of the Company’s outstanding borrowings under its secured revolving credit facility and to pay fees and expenses related to the offering of the Notes.

The foregoing summary of the Indenture does not purport to be complete and is qualified in its entirety by reference to the Indenture, which is attached as Exhibit 4.1 hereto and incorporated by reference herein.

### Item 1.02. *Termination of a Material Definitive Agreement*

On March 15, 2021, the Company determined that all conditions precedent to the Company’s redemption (the “Redemption”) of its 2024 Notes pursuant to its Conditional Notice of Full Redemption issued on March 1, 2021 had been satisfied. Accordingly, the 2024 Notes will be redeemed on March 31, 2021 at an aggregate redemption price of \$390,640,625, consisting of 102.625% of the principal due and payable on the 2024 Notes plus accrued and unpaid interest to but excluding the March 31, 2021 redemption date. In addition, in connection with the Redemption, effective March 15, 2021, the Company satisfied and discharged all its obligations under the indenture with respect to the 2024 Notes.

## Section 2 - Financial Information

### Item 2.03. *Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant*

The information provided under Item 1.01 above with respect to the issuance of the Notes is incorporated by reference into this Item 2.03.

## Section 9 – Financial Statements and Exhibits

### Item 9.01 – *Financial Statements and Exhibits*

(d) *Exhibits*

[4.1 Indenture dated as of March 15, 2021, among the Company, as issuer, the guarantors named therein and Wells Fargo Bank, National Association, as trustee.](#)

104 Cover Page Interactive Data File (embedded within the Inline XBRL document)

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**ACCO BRANDS CORPORATION**  
(Registrant)

Date: March 16, 2021

By: /s/Pamela R. Schneider  
Pamela R. Schneider  
Senior Vice President, General Counsel and Corporate Secretary

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**ACCO BRANDS CORPORATION**

**as Issuer,  
and the Guarantors named herein**

**4.25% Senior Notes due 2029**

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**INDENTURE**

**Dated as of March 15, 2021**

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**Wells Fargo Bank, National Association,**

**as Trustee**

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Appendix A – Provisions Relating to the Notes

**EXHIBIT INDEX**

Exhibit A – Form of Initial Note

Exhibit B – Form of Supplemental Indenture

Exhibit C – Form of Notation of Note Guarantee

Exhibit D – Form of Certificate of Transfer

Exhibit E – Form of Certificate of Exchange

**INDENTURE** dated as of March 15, 2021 among ACCO Brands Corporation, a Delaware corporation (the “**Issuer**”), the Guarantors (as defined herein) and Wells Fargo Bank National Association, a national banking association, as trustee (the “**Trustee**”).

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of (a) \$575,000,000 aggregate principal amount of the Issuer’s 4.25% Senior Notes due 2029 issued on the date hereof in the form of Exhibit A (the “Initial Notes”), (b) any Additional Notes (as defined herein) that may be issued after the date hereof in the form of Exhibit A (all such securities in clauses (a) and (b) being referred to collectively as the “Notes”).

**ARTICLE ONE**  
**DEFINITIONS AND INCORPORATION**  
**BY REFERENCE**

Section 1.01 Definitions.

“**Acquired Indebtedness**” means, with respect to any specified Person:

- (1) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, and
- (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“**Additional Notes**” means an unlimited maximum aggregate principal amount of additional Notes (other than the Initial Notes) issued under this Indenture in accordance with Section 2.01 and Section 4.03, hereof, as part of the same series as the Initial Notes.

“**Affiliate**” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control,” as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” shall have correlative meanings.

“**Agent**” means any Registrar, Paying Agent, or Notes Custodian.

“**Applicable Premium**” means, with respect to any Note on any redemption date, the greater of:

- (1) 1.0% of the principal amount of the Note; or

- (2) the excess of:
- (a) the present value at such redemption date of (i) the redemption price of the Note at March 15, 2024, (such redemption price being set forth in the table in Section 3.08 hereof) plus (ii) all required interest payments due on the Note through March 15, 2024 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over
  - (b) the principal amount of the Note.

“**Applicable Procedures**” means, with respect to any payment, tender, redemption, transfer or transaction involving a Global Note or beneficial interest therein, the rules and procedures of the Depository, in each case to the extent applicable to such transaction and as in effect from time to time.

“**Asset Sale**” means:

- (1) the sale, conveyance, transfer or other disposition (whether in a single transaction or a series of related transactions) of property or assets (including by way of a Sale and Leaseback Transaction) outside the ordinary course of business of the Issuer or any Restricted Subsidiary of the Issuer (each referred to in this definition as a “**disposition**”); or
- (2) the issuance or sale of Equity Interests (other than directors’ qualifying shares and shares issued to foreign nationals or other third parties to the extent required by applicable law) of any Restricted Subsidiary (other than to the Issuer or another Restricted Subsidiary of the Issuer) (whether in a single transaction or a series of related transactions),

in each case other than:

- (a) a disposition of Cash Equivalents or Investment Grade Securities or obsolete or worn out property or equipment in the ordinary course of business or any disposition of inventory or goods (or other assets) no longer used in the ordinary course of business;
- (b) the disposition of all or substantially all of the assets of the Issuer or the Issuer in a manner permitted pursuant to the provisions described in Section 5.01 or any disposition that constitutes a Change of Control;
- (c) any Restricted Payment or Permitted Investment that is permitted to be made, and is made, under the covenant described in Section 4.04;
- (d) any disposition of assets or issuance or sale of Equity Interests of any Restricted Subsidiary, which assets or Equity Interests so disposed or issued have an aggregate Fair Market Value of less than \$30.0 million;
- (e) any disposition of property or assets by a Restricted Subsidiary to the Issuer or by the Issuer to a Restricted Subsidiary

- (f) sales of assets received by the Issuer or any of its Restricted Subsidiaries upon the foreclosure on a Lien;
- (g) foreclosure, condemnation, casualty or any similar action with respect to property or other asset of the Issuer or any of its Restricted Subsidiaries;
- (h) sales, discounts or leases of inventory, equipment, accounts receivable or other current assets in the ordinary course of business or the conversion of accounts receivable to notes receivable;
- (i) any disposition deemed to occur with creating or granting a Lien not otherwise prohibited by this Indenture;
- (j) the surrender or waiver of contract rights or settlement, release or surrender of a contract, tort or other litigation claim in the ordinary course of business;
- (k) any issuance of employee stock options or stock awards pursuant to benefit plans of the Issuer or any of its Restricted Subsidiaries;
- (l) the licensing or sublicensing of intellectual property or other general intangibles in the ordinary course of business;
- (m) terminations of obligations under Hedging Obligations;
- (n) dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements permitted to be entered into under the terms of this Indenture;
- (o) any sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;
- (p) a transfer of accounts receivable and related assets of the type specified in the definition of “Receivables Financing” (or a fractional undivided interest therein) by a Receivables Subsidiary in a Qualified Receivables Financing; and
- (q) the lease, assignment or sublease of any real or personal property in the ordinary course of business.

“**Bankruptcy Code**” means Title 11 of the United States Code.

“**Bankruptcy Law**” means the Bankruptcy Code or any similar U.S. federal or state law for the relief of debtors.

“**beneficial owner**” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” shall be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms “**beneficially owns**” and “**beneficially owned**” shall have a corresponding meaning.

“**Board of Directors**” means:

- (1) with respect to a corporation, the board of directors of the corporation;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership;
- (3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and
- (4) with respect to any other Person, the board or committee of such Person serving a similar function.

“**Board Resolution**” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Issuer to have been duly adopted by the Board of Directors of the Issuer and to be in full force and effect on the date of such certification.

“**Borrowing Base**” means as of any date, an amount, determined on a consolidated basis and in accordance with GAAP, equal to the sum of (1) 70% of the aggregate book value of inventory *plus* (2) 85% of the aggregate book value of all accounts receivable (net of bad debt reserves) of the Issuer and its Restricted Subsidiaries, after giving *pro forma* effect for acquisitions, investments or dispositions (as determined in accordance with GAAP) of the Issuer and its Restricted Subsidiaries that had occurred on or prior to such date of determination. To the extent that information is not available as to the amount of inventory or accounts receivable as of a specific date, the Issuer shall use the most recent available information for purposes of calculating the Borrowing Base then available, after giving *pro forma* effect for acquisitions, investments or dispositions (as determined in accordance with GAAP) of the Issuer and its Restricted Subsidiaries that had occurred on or after such date and on or prior to such date of determination.

“**Business Day**” means any day other than a Saturday, a Sunday or a day on which the Trustee or banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed.

“**Calculation Date**” has the meaning set forth below in the definition of “Fixed Charge Coverage Ratio.”

“**Capital Lease Obligation**” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) in accordance with GAAP.

“*Capital Stock*” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“*Cash Equivalents*” means:

- (1) U.S. Dollars, pounds sterling, euros, any national currency of any participating member state of the EMU or, in the case of any Foreign Subsidiary that is a Restricted Subsidiary, such local currencies held by it from time to time in the ordinary course of business;
- (2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof in each case with maturities not exceeding two years from the date of acquisition;
- (3) certificates of deposit, time deposits, money market deposits, demand deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers’ acceptances with maturities not exceeding one year from the date of acquisition and overnight bank deposits, in each case with any commercial bank having capital and surplus in excess of \$500.0 million and whose long-term debt is rated at least “A” or the equivalent thereof by Moody’s, S&P or Fitch;
- (4) repurchase obligations for underlying securities of the types described in clauses (2), (3) and (7) of this definition entered into with any financial institution meeting the qualifications specified in clause (3) of this definition;
- (5) commercial paper issued by a Person (other than an Affiliate of the Issuer) rated at least “A-2” or the equivalent thereof by Moody’s or S&P, “P-2” or the equivalent thereof by Moody’s, Inc., or “F2” or the equivalent thereof by Fitch, or carrying an equivalent rating by a nationally recognized Rating Agency and in each case maturing within one year after the date of acquisition;
- (6) investment funds investing at least 95% of their assets in securities of the types described in clauses (1) through (5) of this definition;
- (7) readily marketable direct obligations issued by any state of the United States of America or any political subdivision thereof having one of the two highest rating categories obtainable from either Moody’s, S&P or Fitch in each case with maturities not exceeding two years from the date of acquisition;

- (8) Indebtedness issued by Persons with a rating of “A” or higher from S&P, “A-2” or higher from Moody’s or “A” or higher from Fitch, in each case with maturities not exceeding two years from the date of acquisition; and
- (9) in the case of any Foreign Subsidiary:
- (a) direct obligations of the sovereign nation, or any agency thereof, in which such Foreign Subsidiary is organized and is conducting business or obligations fully and unconditionally guaranteed by such sovereign nation, or any agency thereof;
  - (b) investments of the type and maturity described in clauses (1) through (8) of this definition of foreign obligors, which investments or obligors, or the direct or indirect parents of such obligors, have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies; or
  - (c) investments of the type and maturity described in clauses (1) through (8) of this definition of foreign obligors, or the direct or indirect parent of such obligors, which investments or obligors, or the direct or indirect parent companies of such obligors, are not rated as provided in such clauses or in clause (b) above but which are, in the reasonable judgment of the Issuer, comparable in investment quality to such investments and obligors, or the direct or indirect parent of such obligors.

“*CFC Subsidiary*” means any Restricted Subsidiary of the Issuer that is a controlled foreign corporation for purposes of Section 957 of the Code.

“*Change of Control*” means the occurrence of any of the following:

- (1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Issuer and its Subsidiaries, taken as a whole, to any Person; or
- (2) the Issuer becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision) other than ACCO, including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of merger, consolidation or other business combination or purchase, of beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Issuer or any direct or indirect parent of the Issuer; or
- (3) individuals who on the Issue Date constituted the Board of Directors of the Issuer (together with any new directors whose election by such Board of Directors of the Issuer or whose nomination for election by the stockholders of the Issuer, as the case may be, was approved by a vote of a majority of the directors of the Issuer then still in office who were either directors on the Issue Date or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the Board of Directors of the Issuer then in office.



For purposes of this definition, any direct or indirect holding company of the Issuer shall not itself be considered a Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision) for purposes of clause (2) above, *provided* that no Person or group beneficially owns, directly or indirectly, more than 50% of the Voting Stock of such holding company.

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

“*Clearstream*” means Clearstream Banking S.A. and any successor thereto.

“*Consolidated Depreciation and Amortization Expense*” means with respect to any Person for any period, the total amount of depreciation and amortization expense of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“*Consolidated Interest Expense*” means, with respect to any Person for any period, the sum, without duplication, of:

- (1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted in computing Consolidated Net Income (including amortization of original issue discount, the interest component of Capitalized Lease Obligations, and net payments and receipts (if any) pursuant to interest rate Hedging Obligations and excluding (a) any expenses resulting from the discounting of Indebtedness in connection with the application of purchase accounting in connection with the Transactions or any acquisition, (b) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, (c) any expensing of any bridge, commitment or other financing fees and (d) penalties and interest related to taxes; plus
- (2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; plus
- (3) commissions, discounts, yield and other fees and charges Incurred in connection with any Receivables Financing which are payable to Persons other than the Issuer and its Restricted Subsidiaries; minus
- (4) interest income for such period.

“*Consolidated Net Income*” means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis; *provided, however*, that, without duplication:

- (1) the Net Income for such period of any Person that is not a Subsidiary of such Person, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the specified Person or a Restricted Subsidiary thereof in respect of such period;
- (2) solely for the purpose of determining the amount available for Restricted Payments under clause (3)(A) of Section 4.04(a), the Net Income for such period of any Restricted Subsidiary (other than any Note Guarantor) shall be excluded to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restrictions with respect to the payment of dividends or similar distributions have been legally waived; *provided* that the Net Income of the Issuer will be increased by the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the Issuer or a Restricted Subsidiary thereof in respect of such period, to the extent not already included therein;
- (3) the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting principles during such period shall be excluded;
- (4) any net after-tax extraordinary, nonrecurring or unusual gains or losses or income, expenses or charges (less all fees and expenses relating thereto) (including such fees, expenses or charges in connection with the Transactions), severance, relocation costs and curtailments or modifications to pension and post-retirement employee benefit-plans, including, without limitation, any fees, expenses or charges related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or Indebtedness permitted to be Incurred under this Indenture (in each case, whether or not successful), shall be excluded;
- (5) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions or abandonments or the sale or other disposition of any Capital Stock of any Person other than in the ordinary course of business (as determined in good faith by the Board of Directors of the Issuer) shall be excluded;
- (6) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of Indebtedness, Hedging Obligation or other derivative instruments shall be excluded;
- (7) any other non-cash items (including, without limitation, equity based compensation expense) which would otherwise increase or decrease Consolidated Net Income for such period (excluding any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period or an accrual of, or cash reserve for, anticipated cash charges in a future period) shall be excluded;

- (8) effects of adjustments in the inventory, property and equipment, software, goodwill, other intangible assets, in-process research and development, deferred revenue and debt line items in such Person's consolidated financial statements pursuant to GAAP resulting from the application of purchase accounting in relation to the Transactions or any consummated acquisition or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded;
- (9) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, Asset Sale, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt instrument (in each case, including any such transaction consummated prior to the Issue Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction shall be excluded;
- (10) any currency translation gains and losses related to currency remeasurements of Indebtedness shall be excluded, until such gains or losses are actually realized;
- (11) any expenses or reserves for liabilities to the extent that the Issuer or any of its Restricted Subsidiaries is entitled to indemnification or reimbursement thereof under binding agreements or an insurance claim therefore shall be excluded; *provided* that any liabilities for which the company or such Restricted Subsidiary is not actually indemnified or covered by insurance shall reduce Net Income in the period in which it is determined that the Issuer or such Restricted Subsidiary will not be indemnified or that the applicable insurer will not pay such insurance claim; and
- (12) any impairment charge or asset write-off, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities (including any losses with respect to the foregoing in bankruptcy, insolvency or similar proceedings) or as a result of a change in law or regulation, in each case pursuant to GAAP, shall be excluded.

Notwithstanding the foregoing, for the purpose of Section 4.04 only (other than clause (3)(D) of Section 4.04(a)), there shall be excluded from Consolidated Net Income any income arising from any sale or other disposition of Restricted Investments made by the Issuer and its Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments from the Issuer and its Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments by the Issuer and its Restricted Subsidiaries, any sale of the stock of an Unrestricted Subsidiary or any distribution or dividend from an Unrestricted Subsidiary, in each case only to the extent such amounts increase the amount of Restricted Payments permitted under Section 4.04(a)(3)(D).

“**Consolidated Taxes**” means provision for taxes based on income, profits or capital, including, without limitation, state, franchise and similar taxes taken into account in calculating Consolidated Net Income.

“**Contingent Obligations**” means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness (“**primary obligations**”) of any other Person (the “**primary obligor**”) in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent:

- (1) to purchase any such primary obligation or any property constituting direct or indirect security therefor,
- (2) to advance or supply funds:
  - (a) for the purchase or payment of any such primary obligation; or
  - (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or
- (3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“**Corporate Trust Office**” means the office of the Trustee at which at any particular time its corporate trust business in relation to this Indenture shall be principally administered, which office at the date of execution of this Indenture is located at Wells Fargo Bank, National Association, CTSO Mail Operations, MAC N9300-070, 600 South Fourth Street, Seventh Floor, Minneapolis, MN 55415, Attn: Corporate, Trust Services, ACCO Brands Administrator, and for Agent services and for purposes of Section 2.04 and Section 4.13(a) such office shall also mean the office or agency of the Trustee located at Corporate Trust Operations, MAC N9300-070, 600 South Fourth Street, Minneapolis, MN 55415.

“**Credit Agreement**” means that certain third amended and restated credit agreement, dated as of January 27, 2017, by and among the Issuer, the Guarantors, certain subsidiaries of the Issuer, Bank of America, N.A., as administrative agent, and the other agents and the lenders party thereto, including any related notes, Guarantees, collateral documents, instruments and agreements executed in connection therewith, and, in each case, as amended, restated, modified, renewed, refunded, replaced in any manner (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

“**Credit Facilities**” means one or more debt facilities (including, without limitation, the Credit Agreement), commercial paper facilities, note purchase agreements or indentures, in each case with banks, other lenders or trustees, providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), letters of credit, notes or other borrowings, in each case, as amended, restated, modified, renewed, refunded, restated, restructured, increased, supplemented, replaced or refinanced in whole or in part from time to time.

“**Default**” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“**Depository**” means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.04(a) as the Depository with respect to the Notes, and any and all successors thereto appointed as depository hereunder and having become such pursuant to the applicable provision of this Indenture.

“**Designated Non-cash Consideration**” means the Fair Market Value of non-cash consideration received by the Issuer or any of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate at the time of such Asset Sale. Any particular item of Designated Non-cash Consideration will cease to be considered to be outstanding once it has been sold for cash or Cash Equivalents (which shall be considered Net Cash Proceeds of an Asset Sale when received).

“**Disqualified Stock**” means, with respect to any Person, any Capital Stock of such Person which, by its terms (or by the terms of any security into which it is convertible or for which it is redeemable or exchangeable), or upon the happening of any event:

- (1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise,
- (2) is convertible or exchangeable for Indebtedness or Disqualified Stock of such Person, or
- (3) is redeemable at the option of the holder thereof, in whole or in part,

in each case prior to 91 days after the maturity date of the Notes; *provided, however*, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; *provided, further, however*, that if such Capital Stock is issued to any employee or to any plan for the benefit of employees of the Issuer or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Issuer in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability; *provided, further*, that any class of Capital Stock of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Capital Stock that is not Disqualified Stock shall not be deemed to be Disqualified Stock. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the issuer to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the issuer may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with the covenant described in Section 4.04.

“**Domestic Subsidiary**” means any Restricted Subsidiary of the Issuer other than a Restricted Subsidiary that is (1) a CFC Subsidiary or (2) a Subsidiary of any such CFC Subsidiary.

“**DRE**” means any Person who is “disregarded” as an entity separate from its owner under Section 7701 of the Code and the U.S. Treasury Regulations promulgated pursuant thereto.

“**DTC**” means the Depository Trust Company, its nominees and their respective successors.

“**EBITDA**” means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period plus, without duplication, to the extent the same was deducted in calculating Consolidated Net Income:

- (1) Consolidated Taxes; *plus*
- (2) Fixed Charges; *plus*
- (3) Consolidated Depreciation and Amortization Expense; *plus*
- (4) the amount of any restructuring charges, integration costs or other business optimization expenses, including any one-time costs incurred in connection with the Transactions, other acquisition or related to closure and/or consolidation of facilities; *plus*
- (5) the amount of any minority interest expense consisting of Subsidiary interest attributable to minority equity interests of third parties in any non-Wholly Owned Subsidiary deducted (less the amount of any cash dividends paid to the holders of such minority interests); *plus*
- (6) the amount of loss on sale of receivables and related assets to a Receivables Subsidiary in connection with a Qualified Receivables Financing; *plus*
- (7) any costs or expense incurred pursuant to any management equity plan, restricted stock plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement; *plus*
- (8) any net loss from disposed or discontinued operations; *plus*
- (9) any other non-cash charges, including any write-offs or write-downs (*provided that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period*); *less*
- (10) (a) any non-cash items increasing Consolidated Net Income of such Person for such period, excluding any non-cash items to the extent they represent the reversal of an accrual or reserve for a potential cash item that reduced EBITDA in any prior period and (b) any net income from disposed or discontinued operations.

“**Equity Interests**” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“**Equity Offering**” means any public or private sale of Capital Stock of the Issuer or any direct or indirect parent of the Issuer, as applicable, other than Disqualified Stock, and other than public offerings with respect to the Issuer’s or such direct or indirect parent company’s common stock registered on Form S-8.

“**Euroclear**” means Euroclear Bank, S.A./N.V., as operator of the Euroclear system, and any successor thereto.

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

“**Excluded Subsidiary**” means:

- (1) ACCO Brands Receivables Funding LLC, (ii) ACCO Electra Finance LLC and (iii) any CFC Subsidiary
- (2) any Subsidiary of the Issuer other than a CFC Subsidiary, but only if (i) it is a direct or indirect owner of more than 65% of the voting equity interests of one or more CFC Subsidiaries, (ii) it and all other entities (if any) through which it owns (directly or indirectly) more than 65% of the voting equity interests of such CFC Subsidiaries are DREs or partnerships for U.S. federal income tax purposes, (iii) all or substantially all of its assets and each such DRE’s or partnership’s assets are interests in such CFC Subsidiaries (and cash and Cash Equivalents incidental thereto and Capital Stock, other equity interests or Indebtedness of such CFC Subsidiaries) and (iv) it and each such DRE or partnership does not directly hold an equity interest in a Domestic Subsidiary other than a DRE or partnership described in this clause (2);
- (3) any domestic corporate (for U.S. federal income tax purposes) Subsidiary if all or substantially all of its assets consist of (i) more than 65% of the voting equity interests of one or more CFC Subsidiaries (and cash and Cash Equivalents incidental thereto and Capital Stock, other equity interests or Indebtedness of such CFC Subsidiaries held directly or indirectly solely through one or more DREs) and/or (ii) interests in one or more DREs in each case whose assets consist solely of more than 65% of the voting equity interests of such CFC Subsidiaries (and cash and Cash Equivalents incidental thereto and Capital Stock, other equity interests or Indebtedness of such CFC Subsidiaries and other immaterial assets) that are held directly or indirectly solely through one or more DREs; and

- (4) any Subsidiary of an Excluded Subsidiary described in clause (2), (3) or (4) to the extent not treating such Subsidiary as an Excluded Subsidiary creates a substantial risk of a material adverse tax consequence to the Issuer.

“**Existing Indebtedness**” means the aggregate principal amount of Indebtedness of the Issuer and its Restricted Subsidiaries (other than Indebtedness under the Credit Agreement) outstanding on the Issue Date, until such amounts are repaid.

“**Existing Senior Notes**” means the Issuer’s 5.25% Senior Notes due 2024.

“**Fair Market Value**” means, with respect to any asset or property, the price which could be negotiated in an arm’s-length, free market transaction, for cash, between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction, determined in good faith by the Issuer; *provided* that such determination of Fair Market Value shall be determined in good faith by the chief financial officer, chief accounting officer, or controller of the Issuer with respect to valuations in excess of \$1.0 million, but not in excess of \$50.0 million or determined by the Board of Directors of the Issuer with respect to valuations equal to or in excess of \$50.0 million, as applicable, which determination will be conclusive (unless otherwise provided in this Indenture).

“**Fitch**” means Fitch Ratings Ltd. or any successor to the rating agency business thereof.

“**Fixed Charge Coverage Ratio**” means, with respect to any Person for any period, the ratio of EBITDA of such Person for such period to the Fixed Charges of such Person for such period. In the event that the Issuer or any of its Restricted Subsidiaries Incurs, repays, repurchases or redeems any Indebtedness (other than in the case of ordinary working capital borrowings or revolving advances under any Qualified Receivables Financing, in which case interest expense shall be computed based upon the average daily balance of such Indebtedness during the applicable period) or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “**Calculation Date**”), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, consolidations and discontinued operations (as determined in accordance with GAAP) that have been made by the Issuer or any of its Restricted Subsidiaries during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Calculation Date (each, for purposes of this definition, a “*pro forma* event”) shall be calculated on a *pro forma* basis assuming that all such Investments, acquisitions, dispositions, mergers, consolidations or discontinued operations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Issuer or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation or discontinued operation, that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger or consolidation had occurred at the beginning of the applicable four-quarter period.



For purposes of this definition, whenever *pro forma* effect is to be given to any *pro forma* event (including the Transactions), the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Issuer. Any such *pro forma* calculation may include, without duplication, (1) cost savings and operating expense reductions and other operating improvements or synergies that have been or are expected, in the reasonable judgment of such financial or accounting officer as set forth in an Officer's Certificate, to be realized within 18 months from the effective date of the applicable *pro forma* event which is being given *pro forma* effect (in each case as though such operating expense reductions and other operating improvements or synergies had been realized on the first day of the applicable four-quarter period) and (2) all adjustments of the nature used in connection with the calculation of "Adjusted EBITDA" as described under "Summary Consolidated and Pro Forma Financial Data" and "Summary Unaudited Pro Forma Condensed Consolidated Financial Information" under "Summary" in the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such four-quarter period.

If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of twelve months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate.

"**Fixed Charges**" means, with respect to any specified Person for any period, the sum of:

- (1) Consolidated Interest Expense, and
- (2) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Stock or Disqualified Stock of such Person and its Restricted Subsidiaries.

"**Foreign Subsidiary**" means any Restricted Subsidiary of the Issuer other than a Domestic Subsidiary.

“**GAAP**” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession which are in effect on the Issue Date. For the purposes of this Indenture, the term “consolidated” with respect to any Person shall mean such Person consolidated with its Restricted Subsidiaries, and shall not include any Unrestricted Subsidiary, but the interest of such Person in an Unrestricted Subsidiary will be accounted for as an Investment.

“**Global Notes Legend**” means the legend set forth in Section 2.2(g)(i) of Appendix A, which is required to be placed on all Global Notes issued under this Indenture.

“**Global Notes**” means, individually and collectively, Notes sold to QIBs in reliance on Rule 144A (the “**Rule 144A Global Note**”) or Notes sold in offshore transactions in reliance on Regulation S (the “**Regulation S Global Note**”), deposited with or on behalf of and registered in the name of the Depository or its nominee, substantially in the form of Exhibit A and that bear the Global Note Legend.

“**Government Securities**” means securities that are:

- (1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged, or
- (2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America,

which, in each case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any such Government Securities or a specific payment of principal of or interest on any such Government Securities held by such custodian for the account of the holder of such depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Securities or the specific payment of principal of or interest on the Government Securities evidenced by such depository receipt.

“**Guarantee**” means, as to any Person, a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness of another Person.

**“Guarantors”** means:

- (1) each direct or indirect Domestic Subsidiary of the Issuer on the date of this Indenture (other than any Excluded Subsidiary);
- (2) any other Restricted Subsidiary of the Issuer that executes a Note Guarantee from time to time in accordance with the provisions of this Indenture; and
- (3) their respective successors and assigns until released from their obligations under their Note Guarantees and this Indenture in accordance with the terms of this Indenture.

**“Hedging Obligations”** means, with respect to any Person, the obligations of such Person under:

- (1) currency exchange, interest rate or commodity swap agreements, currency exchange, interest rate or commodity cap agreements and currency exchange, interest rate or commodity collar agreements; and
- (2) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange, interest rates and/or commodity prices.

**“Holder”** means a Person in whose name a Note is registered on the Registrar’s books.

**“Incur”** means issue, assume, guarantee, incur or otherwise become liable for; provided, however, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Subsidiary (whether by merger, amalgamation, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Subsidiary.

**“Indebtedness”** means, with respect to any specified Person, without duplication:

- (1) any indebtedness of such Person, without duplication, whether or not contingent, (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or, without duplication, reimbursement agreements in respect thereof), excluding letters of credit securing obligations other than obligations described in subclauses (a), (b), (e) and (f) of this clause (1) and entered into in the ordinary course of business of such Person, to the extent such letters of credit are not drawn upon, or, if drawn upon, to the extent such drawing is reimbursed no later than the fifth (5th) Business Day following receipt by such Person of a demand for reimbursement, (c) in respect of bankers’ acceptances, (d) representing the deferred balance and unpaid purchase price of any property, except (i) any such balance that constitutes an accrued expense or trade payable or similar obligation to a trade creditor, (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and if not paid after becoming due and payable and (iii) any such balance or unpaid purchase price to the extent that it is either required to be or at the option of such Person may be satisfied solely through the issuance of Equity Interests of the Issuer that are not Disqualified Stock, (e) in respect of Capitalized Lease Obligations, or (f) representing any Hedging Obligations, other than Hedging Obligations that are incurred in the normal course of business and not for speculative purposes, and that do not increase the Indebtedness of the obligor outstanding at any time other than as a result of fluctuations in interest rates, commodity prices or foreign currency exchange rates or by reason of fees, indemnities and compensation payable thereunder, if and to the extent that any of the foregoing indebtedness (other than letters of credit and Hedging Obligations) would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;

- (2) to the extent not otherwise included, any obligation of such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the Indebtedness of the type referred to in clause (1) of another Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business); and
- (3) to the extent not otherwise included, Indebtedness of the type referred to in clause (1) of another Person secured by a Lien on any asset owned by such Person (whether or not such Indebtedness is assumed by such Person); provided, however, that the amount of such Indebtedness will be the lesser of: (a) the Fair Market Value of such asset at such date of determination, and (b) the amount of such Indebtedness of such other Person;

*provided, however*, that notwithstanding the foregoing, the Indebtedness shall be deemed not to include (1) Contingent Obligations incurred in the ordinary course of business, (2) Obligations under or in respect of Qualified Receivables Financing, or (3) pension fund obligations or rehabilitation obligations that are classified as “indebtedness” under GAAP, but that would not otherwise constitute Indebtedness of the type referred to in clause (1) above.

“**Indenture**” means this Indenture, as amended or supplemented from time to time.

“**Indirect Participant**” means a Person who holds a beneficial interest in a Global Note through a Participant, including through Clearstream and Euroclear.

“**Initial Purchasers**” means, the initial purchasers identified under “Plan of Distribution” in the Offering Memorandum.

“**Investment Grade Rating**” means, a debt rating of the Notes of BBB- or higher by S&P, Baa3 or higher by Moody’s and BBB- by Fitch or the equivalent of such ratings by S&P, Moody’s and Fitch or, in the event S&P, Moody’s or Fitch shall cease rating the Notes and the Issuer shall select any other Rating Agency, the equivalent of such ratings by such other Rating Agency.

“**Investment Grade Securities**” means:

- (1) securities issued or directly and fully guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents),
- (2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Issuer and its Subsidiaries;

- (3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2), which fund may also hold immaterial amounts of cash pending investment and/or distribution, and
- (4) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

**“Investments”** means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit and advances to customers and commission, payroll, travel and similar advances to officers, employees and consultants made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP in the same manner as the other investments included in this definition to the extent such items involve the transfer of cash or other property. For purposes of the definition of “Unrestricted Subsidiary” and Section 4.04:

- (1) “Investments” shall include the portion (proportionate to the Issuer’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of a Subsidiary of the Issuer at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Issuer shall be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary equal to an amount (if positive) to:
  - (a) the Issuer’s “Investment” in such Subsidiary at the time of such redesignation less
  - (b) the portion (proportionate to the Issuer’s equity interest in such Subsidiary) of the Fair Market Value of the net assets of such Subsidiary at the time of such redesignation; and
- (2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Issuer.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Issuer or any of its Restricted Subsidiaries in respect of such Investment.

**“Issue Date”** means March 15, 2021.

**“Lien”** means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction); *provided* that in no event shall an operating lease be deemed to constitute a Lien.

“**Market Capitalization**” means an amount equal to (1) the total number of issued and outstanding shares of capital stock of the Issuer or any direct or indirect parent company on the date of declaration of the relevant dividend multiplied by (2) the arithmetic mean of the closing prices per share of such capital stock on the New York Stock Exchange (or, if the primary listing of such capital stock is on another exchange, on such other exchange) for the 30 consecutive trading days immediately preceding the date of declaration of such dividend.

“**Moody’s**” means Moody’s Investors Service, Inc. or any successor to the rating agency business thereof.

“**Net Income**” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“**Net Proceeds**” means the aggregate cash proceeds received by the Issuer or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash payments received (1) upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale or any cash received in connection with a Permitted Asset Swap and (2) by way of deferred payment of principal pursuant to a note or installment receivable or otherwise, but only as and when received, but excluding the assumption by the acquiring Person of Indebtedness relating to the disposed assets or other consideration received in any other non-cash form), net of the direct costs relating to such Asset Sale or the sale or disposition of such Designated Non-cash Consideration (including, without limitation, legal, accounting and investment banking fees, and brokerage and sales commissions), and any severance, restructuring, retention, relocation and integration expenses Incurred as a result thereof, taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements related thereto), amounts required to be applied to the repayment of principal, premium (if any), and interest on Indebtedness required (other than pursuant to Section 4.06(b)) to be paid as a result of such transaction, and any deduction of appropriate amounts to be provided by the Issuer as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Issuer or any of its Restricted Subsidiaries after such sale or other disposition thereof, including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction.

“**New York Uniform Commercial Code**” means the Uniform Commercial Code as in effect from time to time in the State of New York.

“**Note Guarantee**” means a Guarantee of the Notes pursuant to this Indenture.

“**Notes**” has the meaning assigned to it in the preamble to this Indenture. The Initial Notes and the Additional Notes shall be treated as a single class for all purposes under this Indenture, and unless the context otherwise requires, all references to the Notes shall include the Initial Notes and any Additional Notes.

**“Obligations”** means any principal, interest, penalties, fees, expenses, indemnifications, reimbursements, damages and other liabilities (including all interest accruing after the commencement of any insolvency or liquidation proceeding, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding) under the documentation governing any Indebtedness.

**“Offering Memorandum”** means the final offering memorandum, dated March 1, 2021, relating to the offering of the Notes.

**“Officer”** means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Senior Vice President, any Vice President or any Assistant Vice President of such Person.

**“Officer’s Certificate”** means a certificate signed on behalf of a Person by an Officer of such Person that meets the requirements of this Indenture.

**“Opinion of Counsel”** means an opinion from legal counsel (who may be counsel to or an employee of the Issuer), or other counsel who is reasonably acceptable to the Trustee, that meets the requirements of this Indenture.

**“Participant”** means, with respect to the Depository, a Person who has an account with the Depository (and, with respect to DTC, shall include Euroclear and Clearstream).

**“Permitted Asset Swap”** means any transfer of properties or assets by the Issuer or any of its Restricted Subsidiaries in which the consideration received by the transferor consists primarily of properties or assets to be used in a Similar Business; provided that the fair market value (determined in good faith by the Board of Directors of the Issuer if such amount is reasonably likely to exceed \$50.0 million) of properties or assets received by the Issuer or any such Restricted Subsidiary in connection with such Permitted Asset Swap is at least equal to the fair market value (determined in good faith by the Board of Directors of the Issuer if such amount is reasonably likely to exceed \$50.0 million) of properties or assets transferred by the Issuer or such Restricted Subsidiary in connection with such Permitted Asset Swap.

**“Permitted Investments”** means:

- (1) any Investment in the Issuer or in a Restricted Subsidiary of the Issuer;
- (2) any Investment in cash, Cash Equivalents or Investment Grade Securities;
- (3) any Investment by the Issuer or any Restricted Subsidiary of the Issuer in a Person, if as a result of such Investment:
  - (a) such Person becomes a Restricted Subsidiary of the Issuer; or
  - (b) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, the Issuer or a Restricted Subsidiary of the Issuer;

- (4) any Investment in securities or other assets not constituting cash, Cash Equivalents or Investment Grade Securities and received in connection with an Asset Sale made pursuant to the provisions of Section 4.06 or any other disposition of assets not constituting an Asset Sale;
- (5) any Investment existing on the Issue Date and any amendment, modification, restatement, supplement, extension, renewal, refunding, replacement or refinancing, in whole or in part thereof; provided, that such amendment, modification, restatement, supplement, extension, renewal, refunding, replacement or refinancing does not increase the aggregate principal amount thereof;
- (6) advances to, or guarantees of Indebtedness of, employees not in excess of \$10.0 million outstanding at any one time in the aggregate;
- (7) any Investment acquired by the Issuer or any of its Restricted Subsidiaries in satisfaction of judgments, settlements of debt or compromises of obligations incurred in the ordinary course of business;
- (8) any Investment acquired by the Issuer or any of its Restricted Subsidiaries (a) in exchange for any other Investment or accounts receivable held by the Issuer or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the Issuer of such other Investment or accounts receivable, or (b) as a result of a foreclosure by the Issuer or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;
- (9) Hedging Obligations permitted under Section 4.03(b)(ix);
- (10) loans and advances to officers, directors and employees for business-related travel expenses, moving and relocation expenses, commission and payroll advances and other similar expenses or advances, in each case Incurred in the ordinary course of business or to fund such Person's purchase of Equity Interests in the Issuer or any direct or indirect parent company thereof;
- (11) Investments the payment for which consists of Equity Interests of the Issuer (other than Disqualified Stock) or any direct or indirect parent of the Issuer, as applicable; *provided, however*, that such Equity Interests will not increase the amount available for Restricted Payments under Section 4.04(a)(3);
- (12) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Section 4.07(b) (except transactions described in clauses (ii), (v), and (viii) of such Section);
- (13) Guarantees issued in accordance with Section 4.03 and Section 4.11;



- (14) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property, in each case in the ordinary course of business;
- (15) Investments deemed to have been made as a result of the acquisition of a Person that at the time of such acquisition held instruments constituting Investments that were not acquired in contemplation of the acquisition of such Person;
- (16) any Investment by Restricted Subsidiaries of the Issuer or by the Issuer in other Restricted Subsidiaries of the Issuer and Investments by Subsidiaries that are not Restricted Subsidiaries in other Subsidiaries that are not Restricted Subsidiaries of the Issuer;
- (17) Investments in prepaid expenses and lease, utility and workers' compensation performance and other similar deposits;
- (18) Investments consisting of intercompany Indebtedness between the Issuer and the Guarantors or between Guarantors and permitted by Section 4.03;
- (19) any Investment in a Receivables Subsidiary or any Investment by a Receivables Subsidiary in any other Person in connection with a Qualified Receivables Financing, including Investments of funds held in accounts permitted or required by the arrangements governing such Qualified Receivables Financing or any related Indebtedness;
- (20) advances, loans or extensions of trade credit in the ordinary course of business by the Issuer or any of its Restricted Subsidiaries;
- (21) any Investment in a Similar Business having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), taken together with all other Investments made pursuant to this clause (21) since the Issue Date that are at any time outstanding, not to exceed the greater of (a) \$100.0 million or (b) 3.75% of Total Assets (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); and
- (22) additional Investments by the Issuer or any of its Restricted Subsidiaries having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (22) since the Issue Date that are at any time outstanding, not to exceed the greater of (a) \$150.0 million or (b) 5.50% of Total Assets (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value).

“*Permitted Liens*” means:

- (1) Liens on assets of the Issuer or any of its Restricted Subsidiaries securing Indebtedness and other Obligations under Credit Facilities that was permitted by the terms of this Indenture to be Incurred pursuant to Section 4.03(b)(i) and/or securing Hedging Obligations related thereto;
- (2) Liens on assets of the Issuer or any of its Restricted Subsidiaries securing Indebtedness and other Obligations under Credit Facilities that was permitted to be Incurred pursuant to Section 4.03 hereof; *provided* that immediately after giving effect to the creation or Incurrence of any such Lien pursuant to this clause (2), the Senior Secured Leverage Ratio of the Issuer would be equal to or less than 3.75 to 1.00;
- (3) Liens in favor of the Issuer or any Restricted Subsidiary;
- (4) Liens on property, assets or shares of Capital Stock of a Person existing at the time such Person is acquired by, merged with or into or consolidated, combined or amalgamated with the Issuer or any Restricted Subsidiary of the Issuer; *provided* that such Liens were in existence prior to, and were not incurred in connection with or in contemplation of, such merger, acquisition, consolidation, combination or amalgamation and do not extend to any assets other than those of the Person acquired by or merged into or consolidated, combined or amalgamated with the Issuer or the Restricted Subsidiary;
- (5) Liens on property existing at the time of acquisition thereof by the Issuer or any Restricted Subsidiary; *provided* that such Liens were in existence prior to, and were not incurred in connection with or in contemplation of, such acquisition and do not extend to any property other than the property so acquired by the Issuer or the Restricted Subsidiary;
- (6) Liens existing on the date of this Indenture (other than Liens securing the Obligations under the Credit Agreement outstanding on the date of this Indenture);
- (7) Liens to secure any Refinancing Indebtedness permitted to be incurred under this Indenture; *provided* that (a) the new Lien shall be limited to all or part of the same property and assets that secured the original Lien, and (b) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (i) the outstanding principal amount, or if greater, committed amount of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged with such Refinancing Indebtedness, and (ii) an amount necessary to pay any fees and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge;
- (8) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by Section 4.03(b)(xiv); *provided* that any such Lien (a) covers only the assets acquired, constructed or improved with such Indebtedness and (b) is created within 180 days of such acquisition, construction or improvement;
- (9) Liens incurred or pledges or deposits made in the ordinary course of business in connection with workers’ compensation, unemployment insurance and other types of social security and employee health and disability benefits;

- (10) Liens to secure the performance of tenders, completion guarantees, statutory obligations, judgments, bids, contracts, surety or appeal bonds, bid leases, performance bonds, reimbursement obligations under letters of credit that do not constitute Indebtedness or other obligations of a like nature incurred in the ordinary course of business;
- (11) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent for a period of more than 30 days or that are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted; provided that any reserve or other appropriate provision required under GAAP has been made therefor;
- (12) Liens imposed by law, such as carriers' warehousemen's, landlords' mechanics', suppliers', materialmen's and repairmen's Liens, or in favor of customs or revenue authorities or freight forwarders or handlers to secure payment of custom duties, in each case incurred in the ordinary course of business;
- (13) licenses, entitlements, servitudes, encumbrances, easements, rights-of-way, restrictions, reservations, covenants, conditions, utility agreements, minor imperfections of title, minor survey defects or other similar restrictions on the use of any real property that were not incurred in connection with Indebtedness and do not, in the aggregate, materially adversely affect the value of said properties or materially interfere with their use in the operation of the business of the Issuer or any of its Restricted Subsidiaries;
- (14) leases, subleases, licenses, sublicenses or other occupancy agreements granted to others in the ordinary course of business which do not secure any Indebtedness and which do not materially interfere with the ordinary course of business of the Issuer or any of its Restricted Subsidiaries;
- (15) with respect to any leasehold interest where the Issuer or any Restricted Subsidiary of the Issuer is a lessee, tenant, subtenant or other occupant, mortgages, obligations, liens and other encumbrances incurred, created, assumed or permitted to exist and arising by, through or under a landlord or sublandlord of such leased real property encumbering such landlord's or sublandlord's interest in such leased real property;
- (16) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases entered into by the Issuer or any of its Restricted Subsidiaries granted in the ordinary course of business;
- (17) Liens (a) of a collection bank arising under Section 4-210 of the New York Uniform Commercial Code on items in the course of collection, (b) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business and (c) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) within general parameters customary in the banking industry;

- (18) Liens securing judgments for the payment of money not constituting an Event of Default under this Indenture, so long as such Liens are adequately bonded and any appropriate legal proceedings which may have been duly initiated for the review of such judgment shall not have been finally terminated or the period within which such proceedings may be initiated shall not have expired;
- (19) deposits made in the ordinary course of business to secure liability to insurance carriers;
- (20) Liens arising out of conditional sale, title retention, consignment or similar arrangements, or that are contractual rights of set-off, relating to the sale or purchase of goods entered into by the Issuer or any of its Restricted Subsidiaries in the ordinary course of business;
- (21) any encumbrance or restriction (including put and call arrangements) with respect to Capital Stock of any non-majority-owned joint venture or similar arrangement pursuant to any joint venture or similar agreement permitted under this Indenture;
- (22) any extension, renewal or replacement, in whole or in part of any Lien described in clauses (4), (5), (6) and (8) of this definition of “Permitted Liens;” *provided* that any such extension, renewal or replacement is no more restrictive in any material respect than any Lien so extended, renewed or replaced and does not extend to any additional property or assets;
- (23) Liens on cash or Cash Equivalents securing Hedging Obligations in existence on the date of this Indenture, or permitted to be incurred under, this Indenture;
- (24) Liens on accounts receivable, chattel paper and other related assets of a Receivables Subsidiary incurred in connection with Indebtedness Incurred by such Receivables Subsidiary in a Qualified Receivables Financing that is without recourse to the Issuer or any Restricted Subsidiary other than a Receivables Subsidiary (except for Standard Securitization Undertakings);
- (25) Liens under licensing agreements for use of intellectual property entered into in the ordinary course of business and consistent with past practice, including, without limitation, the licensing of any intellectual property that the Issuer or any of its Subsidiaries determine to no longer utilize;
- (26) Liens to secure Indebtedness permitted by Section 4.03(b)(xix); *provided*, that Liens securing Indebtedness permitted to be Incurred pursuant to Section 4.03(b)(xix) extend only to assets of Foreign Subsidiaries;
- (27) Liens incurred in connection with insurance premium financing;
- (28) Liens securing Indebtedness or other Obligations of a Restricted Subsidiary of the Issuer owing to the Issuer or a Guarantor permitted to be incurred in accordance with Section 4.03 hereof;

- (29) Liens securing Hedging Obligations so long as the related Indebtedness is, and is permitted under this Indenture, secured by a Lien on the same property securing such Hedging Obligations;
- (30) Liens on specific items of inventory or other goods and proceeds of the Issuer or any Restricted Subsidiary of the Issuer securing the Issuer's or such Restricted Subsidiary's obligations in respect of bankers' acceptances issued or created for the account of the Issuer or such Restricted Subsidiary to facilitate the purchase, shipment or storage of such inventory or other goods;
- (31) Liens securing obligations owed by the Issuer or any Restricted Subsidiary of the Issuer in respect of any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfer of funds;
- (32) Liens other than any of the foregoing incurred by the Issuer or any Restricted Subsidiary of the Issuer with respect to Indebtedness or other Obligations that do not constitute Indebtedness and that do not, in the aggregate, exceed the greater of (a) \$150.0 million or (b) 5.50% of the Total Assets (determined as of the date of any Incurrence);
- (33) Liens securing judgments for the Specified Brazilian Tax Payment or securing appeal or other surety bonds related to such judgments to the extent such Liens are on assets of Tilibra or another Subsidiary organized under the laws of Brazil; and
- (34) Liens securing purchase price deposits the aggregate amount of which does not exceed the greater of (x) \$50.0 million and (y) 2.00% of Total Assets.

“**Person**” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision thereof or any other entity.

“**Preferred Stock**” means any Equity Interest with preferential right of payment of dividends or upon liquidation, dissolution, or winding up.

“**Purchase Money Note**” means a promissory note of a Receivables Subsidiary evidencing a line of credit, which may be irrevocable, from the Issuer or any Subsidiary of the Issuer to a Receivables Subsidiary in connection with a Qualified Receivables Financing, which note is intended to finance that portion of the purchase price that is not paid by cash or a contribution of equity.

“**QIB**” means a “qualified institutional buyer” as defined in Rule 144A.

“**Qualified Receivables Financing**” means any Receivables Financing of a Receivables Subsidiary that meets the following conditions:

- (1) the Board of Directors of the Issuer shall have determined in good faith that such Qualified Receivables Financing (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Issuer and the Receivables Subsidiary;

- (2) all sales and/or contributions of accounts receivable and related assets to the Receivables Subsidiary are made at Fair Market Value (as determined in good faith by the Issuer); and
- (3) the financing terms, covenants, termination events and other provisions thereof shall be market terms (as determined in good faith by the Issuer) and may include Standard Securitization Undertakings.

“**Rating Agency**” means each of S&P, Moody’s and Fitch, or if any or all of S&P, Moody’s or Fitch shall not make a rating on the Notes publicly available (for reasons outside the control of the Issuer), a statistical rating agency or agencies, as the case may be, nationally recognized in the United States and selected by the Issuer (as certified by a resolution of the Board of Directors of the Issuer) which shall be substituted for S&P’s, Moody’s or Fitch or any or all of them, as the case may be.

“**Receivables Financing**” means any transaction or series of transactions that may be entered into by the Issuer or any of its Subsidiaries pursuant to which the Issuer or any of its Subsidiaries may sell, convey or otherwise transfer to (a) a Receivables Subsidiary (in the case of a transfer by the Issuer or any of its Subsidiaries) and (b) any other Person (in the case of a transfer by a Receivables Subsidiary), or may grant a security interest in, any accounts receivable (whether now existing or arising in the future) of the Issuer or any of its Subsidiaries, and any assets related thereto including, without limitation, all collateral securing such accounts receivable, all contracts and all Guarantees or other obligations in respect of such accounts receivable, proceeds of such accounts receivable and other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving accounts receivable and any Hedging Obligations entered into by the Issuer or any such Subsidiary in connection with such accounts receivable.

“**Receivables Repurchase Obligation**” means any obligation of a seller of receivables in a Qualified Receivables Financing to repurchase receivables arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, off-set or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

“**Receivables Subsidiary**” means a Wholly Owned Restricted Subsidiary of the Issuer (or another Person formed for the purposes of engaging in Qualified Receivables Financing with the Issuer in which the Issuer or any Subsidiary of the Issuer makes an Investment and to which the Issuer or any Subsidiary of the Issuer transfers accounts receivable and related assets) which engages in no activities other than in connection with the financing of accounts receivable of the Issuer and its Subsidiaries, all proceeds thereof and all rights (contractual or other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by the Board of Directors of the Issuer (as provided below) as a Receivables Subsidiary and:

- (1) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (a) is Guaranteed by the Issuer or any other Subsidiary of the Issuer (excluding Guarantees of obligations (other than the principal of and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (b) is recourse to or obligates the Issuer or any other Subsidiary of the Issuer in any way other than pursuant to Standard Securitization Undertakings, or (c) subjects any property or asset of the Issuer or any other Subsidiary of the Issuer, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings;
- (2) with which neither the Issuer nor any other Subsidiary of the Issuer has any material contract, agreement, arrangement or understanding other than on terms which the Issuer reasonably believes to be no less favorable to the Issuer or such Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Issuer; and
- (3) to which neither the Issuer nor any other Subsidiary of the Issuer has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results.

Any such designation by the Board of Directors of the Issuer shall be evidenced to the Trustee by filing with the Trustee a certified copy of the resolution of the Board of Directors of the Issuer giving effect to such designation and an Officer's Certificate certifying that such designation complied with the foregoing conditions.

**"Responsible Officer"** means, when used with respect to the Trustee, any officer at the Corporate Trust Office of the Trustee, including any vice president, assistant vice president, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by such officers who at the time shall have direct responsibility for the administration of this Indenture, or any officer of the Trustee to whom any corporate trust matter is referred because of such Person's knowledge of and familiarity with the particular subject.

**"Restricted Investment"** means an Investment other than a Permitted Investment

**"Restricted Subsidiary"** means, with respect to any Person, any Subsidiary of such Person other than an Unrestricted Subsidiary of such Person. Unless otherwise indicated in this Indenture, all references to Restricted Subsidiaries shall mean any Subsidiary of the Issuer other than an Unrestricted Subsidiary of the Issuer.

**"Rule 144"** means Rule 144 promulgated under the Securities Act.

**"Rule 144A"** means Rule 144A promulgated under the Securities Act.

**"Rule 903"** means Rule 903 promulgated under the Securities Act.

**"Rule 904"** means Rule 904 promulgated under the Securities Act.

“**Rule 144A Global Notes**” means one or more global notes substantially in the form of Exhibit A bearing the Global Note Legend and the Restricted Note Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee, that collectively shall be issued in a total aggregate denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

“**Sale and Leaseback Transaction**” means an arrangement relating to property now owned or hereafter acquired by the Issuer or a Restricted Subsidiary whereby the Issuer or a Restricted Subsidiary transfers such property to a Person and the Issuer or such Restricted Subsidiary leases it from such Person, other than leases between the Issuer and a Restricted Subsidiary of the Issuer or between Restricted Subsidiaries of the Issuer.

“**S&P**” means Standard & Poor’s Ratings Group or any successor to the rating agency business thereof.

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

“**Secured Debt**” means, as of any date of determination, the aggregate stated balance sheet amount of Indebtedness of such Person and its Restricted Subsidiaries on a consolidated basis calculated in accordance with GAAP that is then secured by a Lien on property or assets of such Person and its Restricted Subsidiaries (including, without limitation, Capital Stock of another Person owned by such Person but excluding property or assets held in a defeasance or similar trust or arrangement for the benefit of the Indebtedness secured thereby), less Unrestricted Cash of such Person and its Restricted Subsidiaries.

“**Securities Act**” means the Securities Act of 1933, as amended.

“**Senior Secured Leverage Ratio**” means, as of any date of determination, the ratio of (1) Secured Debt of such Person as of the last day of the most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date of determination to (2) EBITDA of such Person for the most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date of determination, with such adjustments to the amount of Secured Debt and EBITDA as are consistent with the adjustment provisions set forth in the definition of “Fixed Charge Coverage Ratio.”

“**Significant Subsidiary**” means any Subsidiary that would constitute a “significant subsidiary” within the meaning of Article 1 of Regulation S-X under the Securities Act.

“**Similar Business**” means a business, the majority of whose revenues are derived from the type of activities conducted by the Issuer and its Subsidiaries as of the Issue Date, or any business or activity that is reasonably similar thereto or a reasonable extension, development or expansion thereof or ancillary thereto, or is otherwise strategically beneficial to the business of the Issuer and its Subsidiaries.

“**Specified Brazilian Tax Payment**” means any payment of taxes (including interest and penalties in connection therewith) in connection with that certain goodwill tax assessment issued on December 19, 2012 or any other subsequent assessment based on substantially similar allegations or claims by the Federal Revenue Department (Brazil) against Tilibra in an amount not to exceed, in the aggregate, the U.S. Dollar Equivalent of BRL111,000,000.



**“Standard Securitization Undertakings”** means representations, warranties, covenants, indemnities and guarantees of performance entered into by the Issuer or any Subsidiary of the Issuer which the Issuer has determined in good faith to be customary in a Receivables Financing including, without limitation, those relating to the servicing of the assets of a Receivables Subsidiary, it being understood that any Receivables Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking.

**“Stated Maturity”** means, with respect to any security, the date specified in such security as the fixed date on which the final payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such security at the option of the holder thereof upon the happening of any contingency beyond the control of the Issuer unless such contingency has occurred).

**“Subsidiary”** means, with respect to any specified Person:

- (1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other subsidiaries of that Person (or a combination thereof); and
- (2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a subsidiary of such Person or (b) the only general partners of which are such Person or one or more subsidiaries of such Person (or any combination thereof).

**“Subsidiary Guarantors”** means any Subsidiary of the Issuer that executes a Note Guarantee in accordance with the provisions of this Indenture, and their respective successors and assigns, in each case, until the Note Guarantee of such Person has been released in accordance with the provisions of this Indenture.

**“TIA”** means the Trust Indenture Act of 1939, as amended (15 U.S.C. Sections 77aaa-77bbb), as in effect on the date of this Indenture.

**“Tilibra”** means Tilibra Produtos de Papelaria Ltda., a Subsidiary of the Issuer.

**“Total Assets”** means the total consolidated assets of the Issuer and its Restricted Subsidiaries, as shown on the most recent balance sheet of the Issuer then available, after giving pro forma effect for acquisitions or dispositions of Persons, divisions or lines of business that had occurred on or after such balance sheet date and on or prior to such date of determination.

**“Total Debt”** means, with respect to any specified Person as of any date of calculation, the aggregate stated balance sheet amount of all Indebtedness of such Person and its Restricted Subsidiaries on a consolidated basis calculated in accordance with GAAP, less Unrestricted Cash of such Person and its Restricted Subsidiaries.

“**Total Leverage Ratio**” means, as of any date of determination, the ratio of (1) Total Debt of such Person as of the last day of the most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date of determination to (2) EBITDA of such Person for the most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date of determination, with such adjustments to the amount of Total Debt and EBITDA as are consistent with the adjustment provisions set forth in the definition of “Fixed Charge Coverage Ratio”.

“**Transactions**” means, collectively, the transactions contemplated by the issuance of the Notes and the redemption of the Existing Senior Notes.

“**Treasury Rate**” means, as of any redemption date, the weekly average for each Business Day during the most recent week that has ended at least two Business Days prior to the redemption date (or, in the case of a calculation being made in connection with a Legal Defeasance or Covenant Defeasance or satisfaction and discharge of the Indenture, delivery of the applicable notice of redemption) of the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (or, if such statistical release is not so published or available, any publicly available source of similar market data selected by the Company in good faith) that has become publicly available at least two Business Days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to March 15, 2024; provided, however, that if the period from the redemption date to March 15, 2024, is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

“**Trustee**” means Wells Fargo Bank, National Association, a nationally chartered banking association, as trustee hereunder, until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving as trustee hereunder.

“**Uniform Commercial Code**” means the Uniform Commercial Code as in effect from time to time in any applicable jurisdiction.

“**Unrestricted Cash**” means, with respect to any Person, as of any date of determination, cash or Cash Equivalents of such Person and its Restricted Subsidiaries that would not appear as “restricted”, in accordance with GAAP, on a consolidated balance sheet of such Person and its Restricted Subsidiaries as of such date.

“**Unrestricted Subsidiary**” means:

- (1) any Subsidiary of the Issuer that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors of the Issuer in the manner provided below; and
- (2) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Issuer may, subject to Section 4.16, designate any Subsidiary of the Issuer (including any newly acquired or newly formed Subsidiary of the Issuer) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests of, or owns or holds any Lien on any property of, the Issuer or any other Subsidiary of the Issuer that is not a Subsidiary of the Subsidiary to be so designated; *provided, however*, that the Subsidiary to be so designated and its Subsidiaries do not at the time of designation have and do not thereafter Incur any Indebtedness pursuant to which the lender has recourse to any assets of the Issuer or any of its Restricted Subsidiaries; *provided, further, however*, that either:

- (a) the Subsidiary to be so designated has total consolidated assets of \$1,000 or less; or
- (b) if such Subsidiary has consolidated assets greater than \$1,000, then such designation would be permitted under the covenant described in Section 4.04.

The Board of Directors of the Issuer may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided, however*, that immediately after giving effect to such designation:

- (1) (a) the Issuer could Incur \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.03(a) or (b) the Fixed Charge Coverage Ratio for the Issuer and its Restricted Subsidiaries would be greater than such ratio for the Issuer and its Restricted Subsidiaries immediately prior to such designation, in each case on a *pro forma* basis taking into account such designation, and
- (2) no Event of Default shall have occurred and be continuing.

Any such designation by the Board of Directors of the Issuer shall be evidenced to the Trustee by promptly filing with the Trustee a copy of the resolution of the Board of Directors of the Issuer giving effect to such designation and an Officer's Certificate certifying that such designation complied with the foregoing provisions.

**"U.S. Dollar Equivalent"** means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the spot rate for the purpose of U.S. dollars with the applicable foreign currency as published in The Wall Street Journal in the "Exchange Rates" column under the heading "Currency Trading" on the date two Business Days prior to such determination.

**"Voting Equity Interests"** of any Person as of any date means the Equity Interests of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

**"Voting Stock"** of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“*Weighted Average Life to Maturity*” means, when applied to any Indebtedness or Disqualified Stock, as the case may be, at any date, the quotient obtained by dividing:

- (1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock multiplied by the amount of such payment, by
- (2) the sum of all such payments.

“*Wholly Owned Restricted Subsidiary*” means any Wholly Owned Subsidiary that is a Restricted Subsidiary.

“*Wholly Owned Subsidiary*” of any Person means a Subsidiary of such Person 100% of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person or by such Person and one or more Wholly Owned Subsidiaries of such Person.

Section 1.02 Other Definitions.

<b><u>Term</u></b>	<b><u>Defined in Section</u></b>
Act	Section 12.18(a)
Affiliate Transaction	Section 4.07(a)
Asset Sale Offer	Section 4.06(c)
Asset Sale Offer Period	Section 4.06(d)
Change of Control Offer	Section 4.08(b)
Covenant Defeasance	Section 8.03
Covenant Suspension Event	Section 4.16(a)
Custodian	Section 6.01
Declaration	Section 6.02
Definitive Note	Appendix A
Event of Default	Section 6.01
Excess Proceeds	Section 4.06(c)
Guaranteed Obligations	Section 11.01(a)
Initial Notes	Preamble
Legal Defeasance	Section 8.02
Majority Holders	Section 6.02
Notes	Preamble
Notes Custodian	Appendix A
Notice of Default	Section 6.01
Offer Amount	Section 3.09(a)
Offer Period	Section 3.09(a)
Paying Agent	Section 2.04(a)
protected purchaser	Section 2.08
Purchase Agreement	Appendix A
Purchase Date	Section 3.09(a)
Refinancing Indebtedness	Section 4.03(b)(xiii)
Refunding Capital Stock	Section 4.04(b)(ii)
Registrar	Section 3.09

<u>Term</u>	<u>Defined in Section</u>
Regulation S	Appendix A
Regulation S Legend	Appendix A
Repurchase Offer	Section 3.09
Restricted Definitive Note	Appendix A
Restricted Global Note	Appendix A
Restricted Note	Appendix A
Restricted Notes Legend	Appendix A
Restricted Payments	Section 4.04(a)(iv)
Restricted Period	Appendix A
Retired Capital Stock	Section 4.04(b)(ii)
Signature Law	Section 12.13
Specified Courts	Section 12.10
Suspended Covenants	Section 4.16(a)
Suspension Period	Section 4.16(a)
Unrestricted Global Note	Appendix A
Unrestricted Note	Appendix A

Section 1.03 Incorporation by Reference of Trust Indenture Act. Whenever this Indenture refers to a provision of the Trust Indenture Act (“*TIA*”), the provision is incorporated by reference in and made a part of this Indenture. Except with respect to specific provisions of the TIA expressly referenced in the provisions of this Indenture, the TIA shall not be applicable to, and shall not govern, this Indenture and the Notes. The following TIA terms have the following meanings:

“*Commission*” means the SEC;

“*indenture securities*” means the Notes and the Note Guarantees;

“*indenture security holder*” means a Holder;

“*indenture to be qualified*” means this Indenture;

“*indenture trustee*” or “*institutional trustee*” means the Trustee; and

“*obligor*” on the indenture securities means the Issuer, the Guarantors and any other successor obligor on the indenture securities.

All other TIA terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule have the meanings assigned to them by such definitions.

Section 1.04 Rules of Construction. Unless the context otherwise requires:

- (a) a term has the meaning assigned to it;
- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

- (c) “or” is not exclusive;
- (d) “including” means including without limitation;
- (e) words in the singular include the plural and words in the plural include the singular;
- (f) no Indebtedness of any Person will be deemed to be contractually subordinated in right of payment to any other Indebtedness of such Person solely by virtue of being unsecured or by virtue of being secured on a junior priority basis.
- (g) “herein,” “hereof” and other word of similar import refer to this Indenture as a whole and not to any particular Section, Article or other subdivision;
- (h) the principal amount of any non-interest bearing or other discount security at any date shall be the principal amount thereof that would be shown on a balance sheet of the issuer dated such date prepared in accordance with GAAP;
- (i) the principal amount of any Preferred Stock shall be (i) the maximum liquidation value of such Preferred Stock or (ii) the maximum mandatory redemption or mandatory repurchase price with respect to such Preferred Stock, whichever is greater;
- (j) unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP;
- (k) “\$” and “U.S. Dollars” each refer to United States dollars, or such other money of the United States of America that at the time of payment is legal tender for payment of public and private debts;
- (l) “will” shall be interpreted to express a command;
- (m) references to sections of or rules under the Securities Act or the Exchange Act shall be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time; and
- (n) all references to Sections or Articles or Exhibits refer to Sections or Articles or Exhibits of, or to, this Indenture unless otherwise indicated.

**ARTICLE TWO**  
**THE NOTES**

Section 2.01 Amount of Notes; Additional Notes. The aggregate principal amount of Initial Notes which may be authenticated and delivered under this Indenture as Global Notes on the Issue Date is \$575,000,000. All Notes shall be substantially identical except as to denomination.

The Issuer may from time to time after the Issue Date issue Additional Notes under this Indenture in an unlimited principal amount, so long as (i) the Incurrence of the Indebtedness represented by such Additional Notes is at such time permitted by Section 4.03 and Section 4.12 and (ii) such Additional Notes are issued in compliance with the other applicable provisions of this Indenture.

With respect to any Additional Notes issued after the Issue Date (except for Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Notes pursuant to [Section 2.07](#), [Section 2.08](#), [Section 2.10](#), [Section 3.07](#), [Section 3.09\(d\)](#), [Section 4.06\(g\)](#) and [Section 4.08\(c\)](#) or [Appendix A](#)), there shall be (a) established in or pursuant to a resolution of the Board of Directors and (b) set forth or determined in the manner provided in an Officer's Certificate or established in one or more indentures supplemental hereto, prior to the issuance of such Additional Notes:

- (i) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to, and under the terms of, this Indenture;
- (ii) the issue price and issuance date of such Additional Notes, including the date from which interest on such Additional Notes shall accrue; and
- (iii) that such Additional Notes shall be issuable in whole or in part in the form of one or more Global Notes and, in such case, the Depositary for such Global Notes, the form of legend or legends which shall be borne by such Global Notes in addition to or in lieu of those set forth in [Exhibit A](#) hereto and any circumstances in addition to or in lieu of those set forth in [Section 2.2](#) of [Appendix A](#) in which any such Global Notes may be exchanged in whole or in part for Additional Notes registered, or any transfer of such Global Notes in whole or in part may be registered, in the name or names of Persons other than the Depositary for such Global Notes or a nominee thereof.

If any of the terms of any Additional Notes are established by action taken pursuant to a resolution of the Board of Directors, a copy of an appropriate record of such action shall be certified by the Secretary or any Assistant Secretary of the Issuer and delivered to the Trustee at the time of or prior to the delivery of the Officer's Certificate or the indenture supplemental hereto setting forth the terms of the Additional Notes.

**Section 2.02 [Form and Dating](#).** Provisions relating to the Notes are set forth in [Appendix A](#), which is hereby incorporated in and expressly made a part of this Indenture. The Initial Notes and any Additional Notes if issued as Restricted Notes and the Trustee's certificate of authentication shall be substantially in the form of [Exhibit A](#) hereto, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Issuer or any Guarantor is subject, if any, or usage. Each Note shall be dated the date of its authentication. The Notes shall be issuable only in registered, global form without interest coupons and in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. Notes will be issued at the closing of the offering described in the Offering Memorandum only against payment to the Issuer in immediately available funds.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture, and the Issuer, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

Section 2.03 Execution and Authentication. The Trustee shall authenticate and make available for delivery upon a written order of the Issuer signed by one Officer and an Opinion of Counsel (a) Initial Notes for original issue on the date hereof in an aggregate principal amount of \$575,000,000 and (b) subject to the terms of this Indenture, Additional Notes in an aggregate principal amount to be determined at the time of issuance and specified therein. Such order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

At least one Officer shall sign the Notes for the Issuer by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

A Note shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee may appoint one or more authenticating agents reasonably acceptable to the Issuer to authenticate the Notes. Any such appointment shall be evidenced by an instrument signed by a Responsible Officer, a copy of which shall be furnished to the Issuer. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

Section 2.04 Registrar and Paying Agent. (a) The Issuer shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange (the “Registrar”) and (ii) an office or agency where Notes may be presented for payment (the “Paying Agent”). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Issuer may have one or more co-registrars and one or more additional paying agents. The term “**Registrar**” includes any co-registrars. The term “**Paying Agent**” includes the Paying Agent and any additional paying agents. The Issuer initially appoints (i) the Trustee as Registrar, Paying Agent and also, with respect to the Global Notes, as the Notes Custodian, and (ii) DTC to act as Depository with respect to the Global Notes. The Issuer may change the Paying Agent or Registrar without prior notice to any Holder.

(b) The Issuer may enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Issuer shall notify the Trustee of the name and address of any such agent. If the Issuer fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.06. The Issuer or any of its Subsidiaries may act as Paying Agent or Registrar.



(c) The Issuer may remove any Registrar or Paying Agent upon written notice to such Registrar or Paying Agent and to the Trustee; *provided, however*, that no such removal shall become effective until (i) if applicable, acceptance of an appointment by a successor as evidenced by an appropriate agreement entered into by the Issuer and such successor Registrar or Paying Agent, as the case may be, and delivered to the Trustee or (ii) notification to the Trustee that the Trustee shall serve as Registrar or Paying Agent until the appointment of a successor in accordance with clause (i) above. The Registrar or Paying Agent may resign at any time upon written notice to the Issuer and the Trustee; *provided, however*, that the Trustee may resign as Paying Agent or Registrar only if the Trustee also resigns as Trustee in accordance with Section 7.07.

Section 2.05 Paying Agent to Hold Money in Trust. On or prior to 12 p.m. New York City time on each due date of the principal of, premium (if any), interest (if any) on any Note, the Issuer shall deposit with each Paying Agent (or if the Issuer or a Wholly Owned Subsidiary of the Issuer is acting as Paying Agent, segregate and hold in trust for the benefit of the Persons entitled thereto) a sum sufficient to pay such amounts when so becoming due. The Issuer shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal of, premium (if any), interest (if any) on the Notes, and shall notify the Trustee of any default by the Issuer in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. If the Issuer or a Wholly Owned Subsidiary of the Issuer acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it in trust for the benefit of Holders. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by such Paying Agent. Upon complying with this Section 2.05, a Paying Agent (if other than the Issuer or one of its Wholly Owned Subsidiaries) shall have no further liability for the money delivered to the Trustee. Upon any bankruptcy or reorganization proceedings relating to the Issuer, the Trustee shall serve as Paying Agent for the Notes.

Section 2.06 Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Issuer shall furnish, or cause the Registrar to furnish, to the Trustee, in writing at least five Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form as the Trustee may reasonably require of the names and addresses of Holders as of such date.

Section 2.07 Transfer and Exchange. The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer and in compliance with Appendix A. When a Note is presented to the Registrar with a request to register a transfer, the Registrar shall register the transfer as requested if its requirements therefor are met. When Notes are presented to the Registrar with a request to exchange them for an equal principal amount of Notes of other authorized denominations, the Registrar shall make the exchange as requested if the same requirements are met. To permit registration of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Notes at the Registrar's request. The Issuer shall not be required to make, and the Registrar need not register, transfers or exchanges of Notes (i) selected for redemption (except, in the case of Notes to be redeemed in part, the portion thereof not to be redeemed) or of any Notes for a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption and ending at the close of business on the day of selection or (ii) tendered and not withdrawn in connection with a Change of Control Offer or an Asset Sale Offer or any other tender offer for the Notes. The transferor of any Note shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Section 6045 of the Code.

Prior to the due presentation for registration of transfer of any Note, the Issuer, the Guarantors, the Trustee, the Paying Agent and the Registrar may deem and treat the Person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of, premium (if any), interest (if any) on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Issuer, any Guarantor, the Trustee, the Paying Agent or the Registrar shall be affected by notice to the contrary.

Any Holder of a beneficial interest in a Global Note shall, by acceptance of such beneficial interest, agree that transfers of beneficial interests in such Global Note may be effected only through a book-entry system maintained by (a) the Holder of such Global Note (or its agent) or (b) any Holder of a beneficial interest in such Global Note, and that ownership of a beneficial interest in such Global Note shall be required to be reflected in a book entry.

All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

No service charge shall be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any transfer tax, assessments, stamp or similar governmental charge payable in connection therewith (other than any such transfer taxes, assessments, stamp or similar governmental charge payable upon exchanges pursuant to Section 2.10, Section 3.07, Section 3.09, Section 4.06, Section 4.08 and Section 9.04 of this Indenture).

In connection with any proposed exchange of a Global Note for a Certificated Note, there shall be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Section 6045 of the Code.

Section 2.08 Replacement Notes. If a mutilated Note is surrendered to the Registrar or the Trustee or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue and, upon a written order of the Issuer signed by at least one Officer, the Trustee shall authenticate a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met, such that the Holder (a) satisfies the Issuer or the Trustee within a reasonable time after such Holder has notice of such loss, destruction or wrongful taking and the Registrar does not register a transfer prior to receiving such notification, (b) makes such request to the Issuer or the Trustee prior to the Note being acquired by a protected purchaser as defined in Section 8-303 of the Uniform Commercial Code (a "*protected purchaser*") and (c) and the Holder satisfies any other reasonable requirements of the Trustee. If required by the Trustee or the Issuer, such Holder shall furnish an indemnity bond sufficient in the judgment of the Trustee to protect the Trustee, a Paying Agent and the Registrar, and sufficient in the judgment of the Issuer to protect the Issuer, from any loss that any of them may suffer if a Note is replaced. The Issuer and the Trustee may charge the Holder for their expenses in replacing a Note (including without limitation, attorneys' fees and disbursements in replacing such Note). In the event any such mutilated, lost, destroyed or wrongfully taken Note has become or is about to become due and payable, the Issuer in its discretion may pay such Note instead of issuing a new Note in replacement thereof.

Every replacement Note is an additional obligation of the Issuer and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

The provisions of this Section 2.08 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, lost, destroyed or wrongfully taken Notes.

Section 2.09 Outstanding Notes. Notes outstanding at any time are all Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation and those described in this Section 2.09 as not outstanding. Subject to Section 12.06, a Note does not cease to be outstanding because the Issuer or an Affiliate of the Issuer holds the Note.

If a Note is replaced pursuant to Section 2.08 (other than a mutilated Note surrendered for replacement), it ceases to be outstanding unless the Trustee and the Issuer receive proof satisfactory to them that the replaced Note is held by a protected purchaser. A mutilated Note ceases to be outstanding upon surrender of such Note and replacement thereof pursuant to Section 2.08.

If a Paying Agent (other than the Issuer, a Wholly Owned Subsidiary of the Issuer or an Affiliate of any of the foregoing) segregates and holds in trust, in accordance with this Indenture, on a redemption date or maturity date, money sufficient to pay all amounts due and payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, and no Paying Agent is prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) shall be deemed to be no longer outstanding and shall cease to accrue interest. If the principal amount of any Note is considered paid under Section 4.01, it ceases to be outstanding and interest on it ceases to accrue.

Section 2.10 Temporary Notes. In the event that Definitive Notes are to be issued under the terms of this Indenture, until such Definitive Notes are ready for delivery, the Issuer may prepare and, upon a written order of the Issuer signed by an Officer, the Trustee shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of Definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes. Without unreasonable delay, the Issuer shall prepare, and upon a written order of the Issuer signed by an Officer, the Trustee shall authenticate Definitive Notes and make them available for delivery in exchange for temporary Notes upon surrender of such temporary Notes at the office or agency of the Issuer, without charge to the Holder. Until such exchange, temporary Notes shall be entitled to the same rights, benefits and privileges as Definitive Notes.

Section 2.11 Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and each Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment or cancellation and shall dispose of canceled Notes in accordance with its customary procedures. The Issuer may not issue new Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation. Certification of the disposition of all canceled Notes shall be delivered to the Issuer upon request. The Trustee shall not authenticate Notes in place of canceled Notes other than pursuant to the terms of this Indenture.

Section 2.12 Defaulted Interest. If the Issuer defaults in a payment of interest on the Notes, the Issuer shall pay the defaulted interest then borne by the Notes (plus interest on such defaulted interest to the extent lawful) in any lawful manner to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01. The Issuer shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Issuer shall fix or cause to be fixed each such special record date and payment date, provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Issuer (or, upon the written request of the Issuer, the Trustee in the name and at the expense of the Issuer) shall mail or cause to be mailed or sent to each affected Holder a notice stating the special record date, the related payment date and the amount of such interest to be paid.

Section 2.13 CUSIP Numbers, ISINs, etc. The Issuer in issuing the Notes may use CUSIP numbers, ISINs and “Common Code” numbers (if then generally in use) and, if so, the Trustee shall use CUSIP numbers, ISINs and “Common Code” numbers in notices as a convenience to Holders; *provided, however*, that any such notice may state that (x) no representation is made as to the correctness of such numbers, either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes and (y) any such notice shall not be affected by any defect in or omission of such numbers. The Issuer shall advise the Trustee of any change in the CUSIP numbers, ISINs and “Common Code” numbers.

Section 2.14 Calculation of Principal Amount of Notes Outstanding. With respect to any matter requiring consent, waiver, approval or other action of the Holders of a specified percentage of the principal amount of all the Notes, such percentage shall be calculated, on the relevant date of determination, by dividing (a) the principal amount, as of such date of determination, of Notes, the Holders of which have so consented, by (b) the aggregate principal amount, as of such date of determination, of the Notes then outstanding, in each case, as determined in accordance with the preceding sentence, Section 2.09 and Section 12.06 of this Indenture. Any such calculation made pursuant to this Section 2.14 shall be made by the Issuer and delivered to the Trustee pursuant to an Officer’s Certificate.

Section 2.15 Methods of Receiving Payments on the Notes. The Issuer and the Trustee will treat the Persons in whose names the Notes, including the Global Notes, are registered as the owners of the Notes for the purpose of receiving payments and for all other purposes. The Issuer will make payments in respect of the Notes represented by the Global Notes, including principal, premium, if any, and interest, by wire transfer of immediately available funds to the accounts specified by the Depository, as registered Holder of the Global Notes under this Indenture. The Issuer will make all payments of principal, interest and premium, if any, with respect to Definitive Notes by wire transfer of immediately available funds to the accounts specified by the Holders of the Definitive Notes or, if no such account is specified, by mailing a check to each such Holder's registered address. All other payments on Notes shall be made at the office or agency of the Paying Agent and Registrar unless the Issuer elects to make interest payments by check mailed to the Holders at their addresses set forth in the register of Holders. The Issuer shall inform each Paying Agent of such election.

Section 2.16 Payments in Respect of Global Notes. Upon receipt by the Depository of any payment of principal of, premium on, if any, and interest on any Global Note, the Depository will immediately credit, on its book-entry registration and transfer system, the accounts of Participants with payments in amounts proportionate to their respective beneficial interests in the principal or face amount of such Global Note as shown on the records of the Depository. Payments by Participants and Indirect Participants to owners of beneficial interests in a Global Note held through such Participants or Indirect Participants will be (i) governed by standing instructions and customary practices as is now the case with securities held for customer accounts registered in "street name" and (ii) the sole responsibility of the Participants or the Indirect Participants and not the responsibility of the Depository, the Trustee or the Issuer. Neither the Issuer nor the Trustee will be liable for any delay by the Depository or any of the Participants or the Indirect Participants in identifying the owners of beneficial interests in the Notes, and the Issuer and the Trustee may conclusively rely on and will be protected in relying on instructions from the Depository or its nominee for all purposes.

### **ARTICLE THREE** **REDEMPTION**

Section 3.01 Applicability of Article. Redemption of Notes at the election of the Issuer or otherwise, as permitted or required by any provision of this Indenture, shall be made in accordance with such provision and this Article Three.

Section 3.02 Notices to Trustee. If the Issuer elects to redeem Notes pursuant to the optional redemption provisions of Section 3.08, the Issuer shall furnish to the Trustee, at least 15 days but not more than 60 days before a redemption date, a notice in writing setting forth (a) the clause of this Indenture pursuant to which the redemption shall occur; (b) the redemption date; (c) the principal amount of Notes to be redeemed; and (d) the redemption price. Such notice shall be accompanied by an Officer's Certificate and Opinion of Counsel from the Issuer to the effect that such redemption will comply with the conditions herein. If fewer than all the Notes are to be redeemed, the record date relating to such redemption shall be selected by the Issuer and given to the Trustee, which record date shall be not fewer than 15 days after the date of notice to the Trustee. Any such notice may be canceled at any time prior to notice of such redemption being mailed to any Holder and shall thereby be void and of no effect. If the redemption price is not known at the time such notice is to be given, the actual redemption price, calculated as described in the terms of the Notes, will be set forth in an Officer's Certificate of the Issuer delivered to the Trustee no later than two Business Days prior to the redemption date.

Section 3.03 Selection of Notes to Be Redeemed.

(a) If less than all of the Notes are to be redeemed at any time, and the Notes are Global Notes, the Notes to be redeemed will be selected by DTC in accordance with Applicable Procedures. If the Notes to be redeemed are not Global Notes, the Trustee shall select Notes for redemption on a *pro rata* basis unless otherwise required by law or applicable stock exchange or depositary requirements. The Trustee shall make the selection from outstanding Notes not previously called for redemption.

(b) The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected will be in amounts of \$2,000 or integral multiples of \$1,000 in excess thereof, and no Notes of \$2,000 or less shall be redeemed in part; *provided* that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not \$2,000 or a multiple of \$1,000 in excess thereof, shall be redeemed. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

Section 3.04 Notice of Optional Redemption. (a) At least 15 days but not more than 60 days before a redemption date, the Issuer shall send to the Depository in accordance with Applicable Procedures or mail or cause to be mailed by first class mail a notice of redemption to each Holder whose Notes are to be redeemed at such Holder's registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture.

Any such notice shall identify the Notes to be redeemed and shall state:

- (i) the redemption date;
- (ii) the redemption price (or manner of calculation if not then known) and the amount of accrued interest to the redemption date;
- (iii) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion of the original Note shall be issued (or transferred by book entry) in the name of the Holder thereof upon cancellation of the original Note;
- (iv) the name, telephone number and address of the Paying Agent;
- (v) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price, plus accrued interest;
- (vi) if fewer than all the outstanding Notes are to be redeemed, the certificate numbers and principal amounts of the particular Notes to be redeemed, the aggregate principal amount of Notes to be redeemed and the aggregate principal amount of Notes to be outstanding after such partial redemption;

- (vii) that, unless the Issuer defaults in making such redemption payment or any Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture, interest on Notes (or portion thereof) called for redemption ceases to accrue on and after the redemption date;
- (viii) the paragraph of the Notes and or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;
- (ix) any conditions precedent to such redemption described in reasonable detail;
- (x) the CUSIP number and ISIN and/or “Common Code” number, if any, printed on the Notes; and
- (xi) that no representation is made as to the correctness or accuracy of the CUSIP number or ISIN and/or “Common Code” number, if any, listed in such notice or printed on the Notes.

(b) At the Issuer’s request, the Trustee shall give the notice of redemption in the Issuer’s name and at the Issuer’s expense. In such event, the Issuer shall provide the Trustee with an Officer’s Certificate requesting that the Trustee give such notice together with the notice to be given setting forth the information required by this Section at least five Business Days prior to the date of giving such notice of redemption (unless a shorter period shall be satisfactory to the Trustee). The notice, if mailed or sent in the manner provided herein shall be presumed to have been given, whether or not the Holder receives such notice. If any of the Notes are in the form of a Global Note, then the Issuer, or the Trustee at the Issuer’s request, shall modify the notice to be given pursuant to this [Section 3.04](#) and the method of delivery of such notice to the extent necessary to accord with the Applicable Procedures that apply to the redemption of Global Notes and beneficial interests in Global Notes.

(c) Notice of any optional redemption of the Notes in connection with a corporate transaction (including an Equity Offering, an incurrence of Indebtedness or a Change of Control) may, at the Issuer’s discretion be given prior to the completion of such corporate transaction, and any such redemption or notice may, at the Issuer’s discretion, be subject to one or more conditions precedent, including, but not limited to, the completion of the related corporate transaction. In addition, if such redemption or purchase is subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Issuer’s discretion, the redemption date may be extended until such time as any or all such conditions shall be satisfied or waived, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date as so extended. The Issuer shall provide written notice to the Trustee prior to the close of business two Business Days prior to the redemption date if any such redemption has been rescinded or delayed, and upon receipt the Trustee shall provide such notice to each holder of the Notes in the same manner in which the notice of redemption was given.

Section 3.05 Effect of Notice of Redemption. Once notice of redemption is mailed in accordance with Section 3.04, Notes called for redemption become due on the date fixed for redemption, unless any conditions precedent have not been satisfied or waived. On and after the redemption date, unless the Issuer defaults in the payment of the redemption price or any Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture, interest ceases to accrue on Notes or portions of them called for redemption. Upon surrender to the Paying Agent, such Notes shall be paid at the redemption price stated in the notice, plus accrued and unpaid interest, to the redemption date; *provided, however*, that if the redemption date is after a regular record date and on or prior to the interest payment date, the accrued interest shall be payable to the Holder of the redeemed Notes registered on the relevant record date. Failure to give notice or any defect in the notice to any Holder shall not affect the validity of the notice to any other Holder.

Section 3.06 Deposit of Redemption Price.

(a) With respect to any Notes, on or prior to 10:00 a.m., New York City time, on the redemption date, the Issuer shall deposit with the Paying Agent (or, if the Issuer or a Wholly Owned Subsidiary of the Issuer is the Paying Agent, shall segregate and hold in trust) in immediately available funds money sufficient to pay the redemption price of, and accrued and unpaid interest on, all Notes or portions thereof to be redeemed on that date other than Notes or portions of Notes called for redemption that have been delivered by the Issuer to the Trustee for cancellation. The Paying Agent shall promptly return to the Issuer any money deposited with the Paying Agent by the Issuer in excess of the amounts necessary to pay the redemption price of, and accrued and unpaid interest on, all Notes to be redeemed.

(b) If the Issuer complies with the provisions of Section 3.06(a), on and after the redemption date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Issuer to comply with Section 3.06(a), interest shall be paid on the unpaid principal from the redemption date until such principal is paid and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01.

Section 3.07 Notes Redeemed in Part. Upon surrender and cancellation of a Note that is redeemed in part, the Issuer shall execute and, upon a written order of the Issuer signed by an Officer, the Trustee shall authenticate for the Holder (at the Issuer's expense) a new Note (or transfer by book entry) equal in principal amount to the unredeemed portion of the Note surrendered.

Section 3.08 Optional Redemption.

(a) At any time prior to March 15, 2024, the Issuer may, at its option, redeem up to 40% of the aggregate principal amount of Notes, upon not less than 15 nor more than 60 days' prior notice, at a redemption price equal to 104.25% of the principal amount of the Notes redeemed, plus accrued and unpaid interest, if any, to but not including, the date of redemption, with the net cash proceeds of one or more Equity Offerings by the Issuer or a contribution to the Issuer's common equity capital made with the net cash proceeds of a concurrent Equity Offering by any direct or indirect parent company of the Issuer; *provided that*



(i) at least 50% of the aggregate principal amount of Notes originally issued under the indenture (excluding Notes held by the Issuer and the Issuer's Subsidiaries) remains outstanding immediately after the occurrence of such redemption; and

(ii) notice of the redemption is mailed or sent to holders of the Notes within 120 days of the date of the closing of such Equity Offering.

(b) At any time prior to March 15, 2024, the Issuer may on any one or more occasions redeem all or a part of the Notes, upon not less than 15 nor more than 60 days' notice, at a redemption price equal to 100% of the principal amount of the Notes redeemed, *plus* the Applicable Premium as of, and accrued and unpaid interest, if any, to, the date of redemption, subject to the rights of Holders of Notes on the relevant record date to receive interest on the relevant interest payment date.

(c) Except as set forth in paragraphs (a) and (b) of this Section 3.08, the Issuer shall not have the option to redeem the Notes pursuant to this Section prior to March 15, 2024.

(d) On or after March 15, 2024, the Issuer may redeem the Notes, in whole at any time or in part from time to time, upon not less than 15 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest thereon, if any, to, but not including the applicable redemption date, if redeemed during the 12-month period beginning on March 15 of the years indicated below, subject to the rights of Holders of Notes on the relevant record date to receive interest on the relevant interest payment date:

<b>Year</b>	<b>Percentage</b>
2024	102.125%
2025	101.063%
2026 and thereafter	100.000%

Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

Section 3.09 Repurchase Offers. In the event that, pursuant to Section 4.06 or Section 4.08, the Issuer shall be required to commence an offer to all Holders to purchase all or a portion of their respective Notes (a "**Repurchase Offer**"), the Issuer shall follow the procedures specified in Section 4.06 or Section 4.08, as applicable, and, to the extent not inconsistent therewith, the procedures specified in this Section 3.09.

(a) The Repurchase Offer shall remain open for a period of no less than 30 days and no more than 60 days following its commencement, except to the extent that a longer period is required by applicable law (the "**Offer Period**"). No later than three Business Days after the termination of the Offer Period (the "**Purchase Date**"), the Issuer shall purchase the principal amount of Notes required to be purchased pursuant to Section 4.06 or Section 4.08 (the "**Offer Amount**") or, if less than the Offer Amount has been tendered, all Notes tendered in response to the Repurchase Offer. Payment for any Notes so purchased shall be made in the same manner as interest payments are made.

(b) If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest shall be paid to the Person in whose name a Note is registered at the close of business on such record date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Repurchase Offer.

(c) Upon the commencement of a Repurchase Offer, the Issuer shall send, by first class mail or pursuant to Applicable Procedures, a notice to the Trustee and each of the Holders, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Repurchase Offer. The Repurchase Offer shall be made to all Holders. The notice, which shall govern the terms of the Repurchase Offer, shall state:

(i) that the Repurchase Offer is being made pursuant to this Section 3.09 and either Section 4.06 or Section 4.08, and the length of time the Repurchase Offer shall remain open;

(ii) the Offer Amount, the purchase price and the Purchase Date;

(iii) that any Note not tendered or accepted for payment shall continue to accrue interest;

(iv) that, unless the Issuer defaults in making such payment, any Note (or portion thereof) accepted for payment pursuant to the Repurchase Offer shall cease to accrue interest after the Purchase Date;

(v) that Holders electing to have a Note purchased pursuant to a Repurchase Offer may elect to have Notes purchased only in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof;

(vi) that Holders electing to have a Note purchased pursuant to any Repurchase Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, or transfer by book-entry transfer, to the Issuer, a depository, if appointed by the Issuer, or a Paying Agent at the address specified in the notice at least three days before the Purchase Date;

(vii) that Holders shall be entitled to withdraw their election if the Issuer, the Depository or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(viii) that, if the aggregate amount of Notes surrendered by Holders exceeds the Offer Amount, the Trustee shall, subject in the case of a Repurchase Offer made pursuant to Section 4.06 to the provisions of Section 4.06, select the Notes to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Trustee so that only Notes in denominations of \$2,000, or integral multiples of \$1,000 in excess thereof, shall be purchased); and

(ix) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer).

(d) On the Purchase Date, the Issuer shall, to the extent lawful, subject in the case of a Repurchase Offer made pursuant to Section 4.06 to the provisions of Section 4.06, accept for payment on a *pro rata* basis to the extent necessary, the Offer Amount of Notes (or portions thereof) tendered pursuant to the Repurchase Offer, or if less than the Offer Amount has been tendered, all Notes tendered, and shall deliver to the Trustee an Officer's Certificate stating that such Notes (or portions thereof) were accepted for payment by the Issuer in accordance with the terms of this Section 3.09. The Issuer, the Depository or the Paying Agent, as the case may be, shall promptly (but in any case not later than three days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of Notes tendered by such Holder and accepted by the Issuer for purchase, and, if necessary, the Issuer shall promptly issue a new Note or Notes representing any unpurchased portion of the Note or Notes tendered. The Trustee, upon written request from the Issuer shall authenticate and mail or deliver such new Note or Notes (or transfer by book entry) to such Holder, in a principal amount equal to any unpurchased portion of the Note or Notes surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Issuer to the respective Holder thereof. The Issuer shall publicly announce the results of the Repurchase Offer on the Purchase Date.

(e) The Issuer shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws or regulations are applicable in connection with the repurchase of the Notes pursuant to a Repurchase Offer. To the extent that the provisions of any securities laws or regulations conflict with Section 3.09, Section 4.06 or Section 4.08, the Issuer will comply with the applicable securities laws and regulations and shall not be deemed to have breached their obligations under Section 3.09, Section 4.06 or Section 4.08 by virtue of such compliance.

(f) If any of the Notes are in the form of a Global Note, then the Issuer shall modify the notice set forth in Section 3.09(c) and the method of delivery of such notice to the extent necessary to accord with the Applicable Procedures that apply to the repurchase of Global Notes and beneficial interests in Global Notes.

#### **ARTICLE FOUR** **COVENANTS**

Section 4.01 Payment of Notes. The Issuer agrees that it shall promptly pay or cause to be paid, on or prior to 10:00 a.m., New York City time, the principal of, premium (if any) and interest on the Notes on the dates and in the manner provided in the Notes and in this Indenture. An installment of principal, premium (if any) and interest shall be considered paid on the date due if on such date the Paying Agent, if other than the Issuer or one of its Wholly Owned Subsidiaries, holds as of 12:00 p.m. New York City time money deposited by the Issuer in immediately available funds sufficient to pay all principal, premium (if any) and interest then due and the Paying Agent is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture.

The Issuer shall pay interest (including post petition interest in any proceeding under any Bankruptcy Law) on overdue principal of the Notes at the rate specified therefor in the Notes, and shall pay interest on the Notes at the rate on overdue installments of interest (without regard to any applicable grace period) at the same rate borne by the Notes to the extent lawful.

The Issuer will be responsible for making calculations called for under the Notes, including but not limited to determination of redemption price, premium, if any, and any additional amounts or other amounts payable on the Notes. The Issuer will make the calculations in good faith and, absent manifest error, its calculations will be final and binding on the Holders. The Issuer will provide a schedule of its calculations to the Trustee when requested by the Trustee, and the Trustee is entitled to rely conclusively on the accuracy of the Issuer's calculations without independent verification.

Section 4.02 Reports. (a) Notwithstanding that the Issuer may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or otherwise report on an annual and quarterly basis on forms provided for such annual and quarterly reporting pursuant to rules and regulations promulgated by the SEC, the Issuer shall file with the SEC (and provide the Trustee and Holders with copies thereof, without cost to the Trustee and each Holder, within 15 days after it files them with the SEC),

(i) within the time period specified in the SEC's rules and regulations, annual reports on Form 10-K (or any successor or comparable form) containing the information required to be contained therein (or required in such successor or comparable form),

(ii) within the time period specified in the SEC's rules and regulations, reports on Form 10-Q (or any successor or comparable form) containing the information required to be contained therein (or required in such successor or comparable form),

(iii) promptly from time to time after the occurrence of an event required to be therein reported (and in any event within the time period specified in the SEC's rules and regulations), such other reports on Form 8-K (or any successor or comparable form), and

(iv) any other information, documents and other reports which the Issuer would be required to file with the SEC if it were subject to Section 13 or 15(d) of the Exchange Act;

*provided, however*, that the Issuer shall not be so obligated to file such reports with the SEC if the SEC does not permit such filing, in which event the Issuer will put such information on its website, in addition to providing such information to the Trustee and the Holders, in each case within 15 days after the time the Issuer would be required to file such information with the SEC if it were subject to Section 13 or 15(d) of the Exchange Act.

(b) The Issuer shall make the information specified in this Section 4.02 available to prospective investors in the Notes upon request. In addition, the Issuer shall, for so long as any Notes remain outstanding during any period when it is not subject to Section 13 or 15(d) of the Exchange Act, furnish to the Holders of the Notes and to prospective investors in the Notes, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act until such time as the Notes are freely tradeable under Rule 144.

Notwithstanding the foregoing, the Issuer will be deemed to have furnished such documents and reports referred to in this Section 4.02 to the Trustee and the Holders if the Issuer has filed such reports with the SEC via the EDGAR filing system and such reports are publicly available. The Trustee shall have no obligation to determine whether or not such information, documents or reports have been filed through the EDGAR filing system (or such successor thereto) or posted on the Issuer's website.

In the event that any direct or indirect parent of the Issuer is or becomes a Guarantor of the Notes, the Issuer may satisfy its obligations under this Section 4.02 with respect to financial information relating to the Issuer by furnishing financial information relating to such direct or indirect parent; *provided* that if required by Rule 3-10 of Regulation S-X of the Securities Act, the same is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such direct or indirect parent and any of its Subsidiaries other than the Issuer and its Subsidiaries, on the one hand, and the information relating to the Issuer, the Guarantors and the other Subsidiaries of the Issuer on a standalone basis, on the other hand. Except as specifically provided in the foregoing sentence, in no event will the Issuer be required by this covenant to include in any reports the separate financial information contemplated by Rule 3-10 of Regulation S-X promulgated by the SEC under the Exchange Act or any successor rule or provision.

Delivery of such reports, information and documents to the Trustee is for information purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively (subject to Article Seven) on Officer's Certificates). The Trustee shall not be obligated to monitor or confirm, on a continuing basis or otherwise, the Issuer's compliance with the covenants or with respect to any reports or other documents filed with the SEC or EDGAR or any website under the Indenture, or participate in any conference calls.

Section 4.03 Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock. (a) (i) The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, Incur any Indebtedness (including Acquired Indebtedness) or issue any shares of Disqualified Stock; and (ii) the Issuer shall not permit any of its Restricted Subsidiaries to issue any shares of Preferred Stock; *provided, however*, that the Issuer, and any Restricted Subsidiary that is a Guarantor may Incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock and the Issuer and any Restricted Subsidiary may issue shares of Preferred Stock, in each case if the Fixed Charge Coverage Ratio of the Issuer for the most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is Incurred or such Disqualified Stock or Preferred Stock is issued would have been at least 2.00 to 1.00 determined on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), as if the additional Indebtedness had been Incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such four-quarter period.

(b) The limitations set forth in Section 4.03(a) shall not apply to:

(i) the Incurrence by the Issuer or its Restricted Subsidiaries of Indebtedness under Credit Facilities and the issuance and creation of letters of credit and bankers' acceptances thereunder (with letters of credit and bankers' acceptances being deemed to have a principal amount equal to the face amount thereof) up to an aggregate principal amount at any one time not to exceed the greater of (a) \$1,750.0 million or (b) the Borrowing Base;

(ii) the Incurrence by the Issuer and the Guarantors of Indebtedness represented by the Notes and the related Note Guarantees to be Incurred on or prior to the Issue Date;

(iii) the Existing Indebtedness of the Issuer and its Restricted Subsidiaries;

(iv) Indebtedness Incurred by the Issuer or any of its Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including without limitation letters of credit in respect of workers' compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance, or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation claims; *provided, however*, that upon the drawing of such letters of credit (other than letters of credit issued under the Credit Agreement), such obligations are reimbursed within 30 days following such drawing;

(v) Indebtedness arising from agreements of the Issuer or any of its Restricted Subsidiaries providing for indemnification, adjustment of purchase price, non-competes or similar obligations, in each case, Incurred in connection with the disposition of any business, assets or a Subsidiary of the Issuer;

(vi) Indebtedness of the Issuer to a Restricted Subsidiary; provided that any such Indebtedness owed to a Restricted Subsidiary that is not a Guarantor or the Issuer is subordinated in right of payment to the Obligations with respect to the Notes and the Note Guarantees; *provided*, further, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Issuer or another Restricted Subsidiary) shall be deemed, in each case, to be an Incurrence of such Indebtedness;

(vii) shares of Preferred Stock of a Restricted Subsidiary issued to the Issuer or another Restricted Subsidiary; *provided* that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary that holds such shares of Preferred Stock of another Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to the Issuer or another Restricted Subsidiary) shall be deemed, in each case, to be an issuance of shares of Preferred Stock;

(viii) Indebtedness of a Restricted Subsidiary to the Issuer or another Restricted Subsidiary; *provided* that if a Guarantor or the Issuer incurs such Indebtedness to a Restricted Subsidiary that is not a Guarantor or the Issuer, such Indebtedness is subordinated in right of payment to the Obligations with respect to the Notes and the related Note Guarantee; *provided*, further, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary holding such Indebtedness ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Issuer or another Restricted Subsidiary) shall be deemed, in each case, to be an Incurrence of such Indebtedness;

(ix) Hedging Obligations of the Issuer or a Restricted Subsidiary that are Incurred in the ordinary course of business and not Incurred for speculative purposes;

(x) obligations in respect of performance, bid, appeal, custom and surety bonds and completion guarantees provided by the Issuer or any of its Restricted Subsidiaries in the ordinary course of business or in connection with the enforcement of rights or claims of the Issuer or any of its Restricted Subsidiaries;

(xi) any Guarantee by the Issuer or a Restricted Subsidiary of Indebtedness or other obligations of the Issuer or any of its Restricted Subsidiaries so long as the Incurrence of such Indebtedness is permitted under the terms of this Indenture; *provided* that if such Indebtedness is by its express terms subordinated in right of payment to the Notes or the Note Guarantee of such Guarantor, as applicable, any such Guarantee of the Issuer or such Subsidiary Guarantor with respect to such Indebtedness shall be subordinated in right of payment to the Notes or such Guarantor's Note Guarantee with respect to the Notes, as applicable, to the same extent as such Indebtedness is subordinated to the Notes or the Note Guarantee of such Guarantor, as applicable;

(xii) Indebtedness of the Issuer or a Restricted Subsidiary arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; *provided* that such Indebtedness is extinguished within five (5) Business Days of its Incurrence;

(xiii) the Incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness or the issuance of Disqualified Stock or Preferred Stock of a Restricted Subsidiary of the Issuer which serves to extend, refund, refinance, renew, replace or defease any Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any of its Restricted Subsidiaries Incurred or issued as permitted in Section 4.03(a) and clauses (ii), (iii), (xiv), (xvi), (xviii) and (xix) of this Section 4.03(b) or any Indebtedness Incurred or Disqualified Stock or Preferred Stock Incurred or issued pursuant to this clause (xiii) to so refund or refinance such Indebtedness, Disqualified Stock or Preferred Stock (subject to the following proviso, "Refinancing Indebtedness") prior to its respective maturity; *provided, however*, that such Refinancing Indebtedness:

(1) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded or refinanced and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Indebtedness, Disqualified Stock or Preferred Stock being refunded or refinanced that were due on or after the date one year following the last maturity date of the Notes then outstanding were instead due on such date one year following the last date of maturity of the Notes;

(2) to the extent such Refinancing Indebtedness refinances (a) Indebtedness subordinated in right of payment to the Notes or the Note Guarantee of such Restricted Subsidiary, as applicable, such Refinancing Indebtedness is subordinated in right of payment to the Notes or the Note Guarantees of such Restricted Subsidiary, as applicable or (b) Disqualified Stock or Preferred Stock, if such Refinancing Indebtedness is Disqualified Stock or Preferred Stock;

(3) is Incurred in an aggregate principal amount or face or liquidation amount (or if issued with original issue discount, an aggregate accreted price) that is equal to or less than the aggregate principal amount or face or liquidation amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced, renewed, replaced or defeased plus all accrued interest and premium, fees and expenses Incurred in connection with such refinancing, refunding, renewing, replacement or defeasance; and

(4) shall not include (x) Indebtedness of a Restricted Subsidiary of the Issuer that is not a Guarantor or the Issuer that refinances Indebtedness of the Issuer or a Restricted Subsidiary that is a Guarantor or the Issuer, or (y) Indebtedness of the Issuer or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary;

(xiv) Indebtedness of the Issuer or any of its Restricted Subsidiaries represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, Incurred on or after the Issue Date and no later than 180 days after the date of purchase or completion of construction, improvement, repair or replacement of property (real or personal), plant or equipment used in the business of the Issuer or any Restricted Subsidiary for the purpose of financing all or any part of the purchase price or cost thereof (where, in the case of a purchase, such purchase may be effected directly or through the purchase of the Capital Stock of the Person owning such property, plant and equipment), in the aggregate principal amount, including all Refinancing Indebtedness permitted to be Incurred under this Indenture to refund, refinance, renew or defease or replace any Indebtedness Incurred pursuant to the provision described in this clause (xiv), not to exceed the greater of (a) \$150.0 million or (b) 5.50% of Total Assets, as of the date of such incurrence;

(xv) Indebtedness of the Issuer or any Restricted Subsidiary, to the extent the net proceeds thereof are promptly deposited to defease, redeem or to satisfy and discharge the Notes;



(xvi) the Incurrence of Acquired Indebtedness or other Indebtedness incurred in connection with, or in contemplation of, an acquisition (including by way of merger or consolidation) by the Issuer or a Restricted Subsidiary; *provided* that, after giving effect to the transactions that result in the Incurrence or issuance thereof, the Fixed Charge Coverage Ratio would be equal to or greater than immediately prior to such transactions and Incurrence;

(xvii) Indebtedness Incurred by a Receivables Subsidiary in a Qualified Receivables Financing that is without recourse to the Issuer or any Restricted Subsidiary other than a Receivables Subsidiary (except for Standard Securitization Undertakings);

(xviii) Indebtedness or Disqualified Stock or Preferred Stock of the Issuer or any of its Restricted Subsidiaries in an aggregate principal amount or liquidation preference, including the Refinancing Indebtedness permitted to be Incurred under this Indenture to refund, refinance, renew, replace or defease any Indebtedness, Disqualified Stock or Preferred Stock Incurred pursuant to this clause (xviii), not to exceed the greater of (a) \$150.0 million or (b) 5.50% of the Total Assets, as of the date of such incurrence;

(xix) the Incurrence by any Foreign Subsidiary of Indebtedness in an aggregate principal amount or liquidation preference, including the Refinancing Indebtedness permitted to be Incurred under this Indenture to refund, refinance, renew, replace or defease any Indebtedness Incurred pursuant to this clause (xix), not to exceed the greater of (a) \$150.0 million or (b) 5.50% of the Total Assets, as of the date of such incurrence;

(xx) Indebtedness Incurred by the Issuer or any of its Restricted Subsidiaries consisting of obligations to pay insurance premiums or take-or-pay obligations contained in supply arrangements Incurred in the ordinary course of business;

(xxi) Indebtedness in respect of overdraft facilities, employee credit card programs and other cash management arrangements Incurred in the ordinary course of business;

(xxii) Indebtedness representing deferred compensation or equity-based compensation to current or former officers, directors, consultants, advisors or employees of the Issuer or any of its Restricted Subsidiaries Incurred in the ordinary course of business and Indebtedness issued by the Issuer or any of its Restricted Subsidiaries to current or former officers, directors, consultants, advisors or employees thereof (or their spouses or former spouses or heirs, trusts, estates or beneficiaries under their estates) to finance the purchase or redemption of Equity Interests of the Issuer or any direct or indirect parent company of the Issuer to the extent permitted by Section 4.04(b)(vii) hereof;

(xxiii) cash management obligations and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections and similar arrangements in each case in connection with deposit accounts; and

(xxiv) Indebtedness incurred by Tilibra or other Restricted Subsidiary organized under the laws of Brazil in connection with the Specified Brazilian Tax Payment.

For purposes of determining compliance with this Section 4.03, in the event that an item, or a portion of such item, taken by itself, of Indebtedness, Disqualified Stock or Preferred Stock meets the criteria of more than one of the categories of permitted Indebtedness described in clauses (i) through (xxiv) above or such item is (or portion, taken by itself, would be) entitled to be Incurred pursuant to Section 4.03(a), the Issuer shall, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such item of Indebtedness in any manner that complies with this Section 4.03; *provided* that all Indebtedness outstanding under the Credit Agreement on the Issue Date shall be deemed to have been Incurred pursuant to Section 4.03(b)(i). Accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness with the same terms, the payment of dividends on Preferred Stock in the form of additional shares of Preferred Stock of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies shall not be deemed to be an Incurrence of Indebtedness for purposes of this Section 4.03. Guarantees of, or obligations in respect of letters of credit relating to, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included in the determination of such amount of Indebtedness; *provided* that the Incurrence of the Indebtedness represented by such Guarantee or letter of credit, as the case may be, was in compliance with this Section 4.03.

For purposes of determining compliance with any U.S. dollar denominated restriction on the Incurrence of Indebtedness where the Indebtedness Incurred, or any Indebtedness outstanding pursuant to the clause or clauses of the categories of permitted Indebtedness described in clauses (i) through (xxiv) of (b) under which such Indebtedness is being Incurred, is denominated in a different currency, the amount of any such Indebtedness being Incurred and such outstanding Indebtedness, if any, will in each case be the U.S. Dollar Equivalent determined on the date any such Indebtedness was Incurred, in the case of term Indebtedness, or first committed or first Incurred (whichever yields the lower U.S. Dollar Equivalent), in the case of revolving credit Indebtedness, which U.S. Dollar Equivalent will be reduced by any repayment on such Indebtedness in proportion to the reduction in principal amount; *provided, however*, that if any such Indebtedness denominated in a different currency is subject to a Currency Protection Agreement with respect to U.S. dollars covering all principal, premium, if any, and interest payable on such Indebtedness, the amount of such Indebtedness expressed in U.S. dollars will be as provided in such Currency Protection Agreement. The principal amount of any Refinancing Indebtedness Incurred in the same currency as the Indebtedness being refinanced will be the U.S. Dollar Equivalent of the Indebtedness refinanced, except to the extent that (1) such U.S. Dollar Equivalent was determined based on a Currency Protection Agreement, in which case the Refinancing Indebtedness will be determined in accordance with the preceding sentence, and (2) if the principal amount of the Refinancing Indebtedness exceeds the principal amount of the Indebtedness being refinanced, the U.S. Dollar Equivalent of such excess, as appropriate, will be determined on the date such Refinancing Indebtedness is Incurred.

Section 4.04      Limitation on Restricted Payments. (a) The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly:

(i) declare or pay any dividend or make any distribution on account of the Issuer's or any of its Restricted Subsidiaries' Equity Interests, including any payment in connection with any merger, amalgamation or consolidation involving the Issuer or any of its Restricted Subsidiaries (other than (A) dividends or distributions by the Issuer payable solely in Equity Interests (other than Disqualified Stock) of the Issuer; or (B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary other than a Wholly Owned Restricted Subsidiary, the Issuer or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities);

(ii) purchase, redeem or otherwise acquire or retire for value any Equity Interests of the Issuer or any direct or indirect parent company of the Issuer or any Restricted Subsidiary held by Persons other than the Issuer or any Restricted Subsidiary of the Issuer;

(iii) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case prior to any scheduled repayment or scheduled maturity, any Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee (other than the payment, redemption, repurchase, defeasance, acquisition or retirement of (A) any Indebtedness of the Issuer or any Guarantor that or contractually subordinated to the Notes or to any Note Guarantee in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase defeasance, acquisition or retirement; or (B) Indebtedness permitted under clauses (vi) and (viii) of Section 4.03(b); or

(iv) make any Restricted Investment

(all such payments and other actions described in clauses (i) through (iv) above being collectively referred to as "**Restricted Payments**"), unless, at the time of and after giving effect to such Restricted Payment:

(1) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof;

(2) immediately after giving effect to such transaction on a *pro forma* basis, the Issuer could Incur \$1.00 of additional Indebtedness under Section 4.03(a); and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer and its Restricted Subsidiaries after the Issue Date (including Restricted Payments permitted by Section 4.04(b)(i), but excluding all other Restricted Payments permitted by Section 4.04(b)), is less than the sum, without duplication, of:

(A) 50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) beginning on April 1, 2012 and ending on the last day of the Issuer's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit), *plus*

(B) 100% of the aggregate net proceeds, including cash and the Fair Market Value (as determined in accordance with the next succeeding sentence) of property other than cash, received by the Issuer since April 1, 2012 from the issue or sale of Equity Interests of the Issuer (excluding Refunding Capital Stock, Disqualified Stock and Equity Interests, the proceeds of which Equity Interests are used in the manner described Section 4.04(b)(ix)), including Equity Interests issued upon conversion of Indebtedness or Disqualified Stock or upon exercise of warrants or options (other than an issuance or sale to a Restricted Subsidiary of the Issuer), *plus*

(C) 100% of the net cash proceeds and the Fair Market Value (as determined in accordance with the next succeeding sentence) of property other than cash received by the Issuer as a contribution to its common equity since April 1, 2012 (other than Refunding Capital Stock), *plus*

(D) to the extent not otherwise included in the Consolidated Net Income of the Issuer for such period, 100% of the aggregate amount received by the Issuer or any Restricted Subsidiary in cash and the Fair Market Value (as determined in accordance with the next succeeding sentence) of property other than cash received by the Issuer or any of its Restricted Subsidiaries from:

(I) the sale or other disposition (other than to the Issuer or one of its Restricted Subsidiaries) of Restricted Investments made by the Issuer or its Restricted Subsidiaries and from repurchases and redemptions of such Restricted Investments from the Issuer or its Restricted Subsidiaries by any Person (other than the Issuer or any of its Subsidiaries) and from repayments of loans or advances, and releases of Guarantees which constituted Restricted Investments made by the Issuer and its Restricted Subsidiaries, or

(II) the sale (other than to the Issuer or one of its Restricted Subsidiaries) of the Capital Stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than in each case to the extent the Investment in such Unrestricted Subsidiary constituted a Permitted Investment) or a dividend from an Unrestricted Subsidiary after the Issue Date, *plus*

(E) in the event any Unrestricted Subsidiary of the Issuer has been redesignated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into, the Issuer or a Restricted Subsidiary of the Issuer, the Fair Market Value (as determined in accordance with the next succeeding sentence) of the Investment of the Issuer in such Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable) (other than in each case to the extent that the Investment in such Unrestricted Subsidiary constituted a Permitted Investment).

The Fair Market Value of property other than cash covered by clauses (3)(B), (C), (D) and (E) above shall be determined in good faith by the Issuer and

(I) in the event of property with a Fair Market Value in excess of \$10.0 million, shall be set forth in an Officer's Certificate delivered to the Trustee; or

(II) in the event of property with a Fair Market Value in excess of \$50.0 million, shall be set forth in a resolution approved by at least a majority of the Board of Directors of the Issuer delivered to the Trustee.

(b) The provisions of Section 4.04(a) shall not prohibit:

(i) the payment of any dividend within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Indenture;

(ii) either of:

(1) the payment, repurchase, retirement, redemption, defeasance or other acquisition of any Equity Interests ("**Retired Capital Stock**") of the Issuer or any direct or indirect parent company of the Issuer or any Indebtedness of the Issuer or any Restricted Subsidiary that is contractually subordinated to the Notes or to any Note Guarantee in exchange for, or out of the proceeds of the substantially concurrent sale of, Equity Interests of the Issuer or any direct or indirect parent company of the Issuer or contributions to the equity capital of the Issuer, other than Disqualified Stock or any Equity Interests sold to a Restricted Subsidiary (collectively, including such contributions, "**Refunding Capital Stock**"); and

(2) the declaration and payment of accrued dividends on the Retired Capital Stock out of the proceeds of the substantially concurrent sale, other than to a Restricted Subsidiary of the Issuer, of Refunding Capital Stock;

(iii) the payment, redemption, repurchase, defeasance or other acquisition of any Indebtedness of the Issuer or any Restricted Subsidiary that is contractually subordinated to the Notes or to any Note Guarantee made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of the Issuer or a Restricted Subsidiary which is Incurred in accordance with Section 4.03 so long as:

(1) such Indebtedness has a Weighted Average Life to Maturity at the time it is Incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness being so repaid, redeemed, repurchased, defeased or acquired,

(2) such Indebtedness has a Stated Maturity which is no earlier than the Stated Maturity of the Indebtedness being so repaid, redeemed, repurchased, defeased or acquired,

(3) such new Indebtedness is subordinated, at least to the same extent as the Indebtedness being so repaid, redeemed, repurchased, defeased or acquired, to the right of payment of the Notes or the Note Guarantees, as applicable; and

(4) such Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate accreted value) that is equal to or less than the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being so repaid, redeemed, repurchased, defeased or acquired plus all accrued interest and premiums, fees, expenses and prepayment penalties Incurred in connection with such repayment, redemption, repurchase, defeasance or acquisition;

(iv) the payment of cash, dividends, distributions or advances to allow the payment in cash in lieu of the issuance of fractional shares of Capital Stock upon exercise or conversion of securities exercisable or convertible into Capital Stock of the Issuer;

(v) any purchase or acquisition from, or withholding on issuance to, any employee of the Issuer or any Restricted Subsidiary of the Issuer of Equity Interests of the Issuer, or Equity Interests of any direct or indirect parent of the Issuer in order to satisfy any applicable Federal, state or local tax payments in respect of the receipt of such Equity Interests;

(vi) the repurchase of Equity Interests deemed to occur upon the exercise of options or warrants if such Equity Interests represents all or a portion of the exercise price thereof;

(vii) the repurchase, retirement, redemption or other acquisition (or dividends to any direct or indirect parent company of the Issuer to finance any such repurchase, retirement or other acquisition) for value of Equity Interests of the Issuer or any direct or indirect parent company of the Issuer held by any future, present or former officer, director, consultant, advisor or employee of the Issuer or any direct or indirect parent company of the Issuer or any other Subsidiary of the Issuer pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or other agreement or arrangement; *provided, however*, that the aggregate amounts paid under this clause (vii) do not exceed \$10.0 million in any calendar year (with unused amounts in any calendar year being carried over to succeeding calendar years); *provided*, further, that such amount in any calendar year may be increased by an amount not to exceed;

(1) the net cash proceeds from the sale of Equity Interests (other than Disqualified Stock) of the Issuer and, to the extent contributed to the Issuer, Equity Interests of any of the Issuer's direct or indirect parent companies, in each case, to officers, directors, consultants, advisors or employees of the Issuer or any direct or indirect parent company of the Issuer or any other Subsidiary of the Issuer that occurs after the Issue Date to the extent the net cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of Section 4.04(a)(iii) or Section 4.04(b)(ii) of this paragraph, plus

(2) the net cash proceeds of "key man" life insurance policies received by the Issuer or any of its Restricted Subsidiaries after the Issue Date, less

(3) the amount of any Restricted Payments made after the Issue Date with the net cash proceeds described in clauses (1) and (2) of this Section 4.04(b)(vii);

(viii) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of the Issuer or any of its Restricted Subsidiaries or any class or series of Preferred Stock of a Restricted Subsidiary Incurred in accordance with Section 4.03;

(ix) Restricted Investments acquired in exchange for, or out of the net proceeds of a substantially concurrent issuance of Equity Interests, other than Disqualified Stock, of the Issuer;

(x) the payment of any dividend by a Restricted Subsidiary of the Issuer to the holders of its Equity Interests on a pro rata basis;

(xi) upon the occurrence of a Change of Control and after completion of the offer to repurchase Notes pursuant to Section 4.08 (including the purchase of all Notes tendered), any purchase or redemption of any Indebtedness of the Issuer or any Subsidiary Guarantor that contractually subordinated to the Notes or to any Note Guarantee that is required to be repurchased or redeemed pursuant to the terms thereof as a result of such Change of Control, at a purchase price not greater than 101% of the outstanding principal amount thereof (plus accrued and unpaid interest and liquidated damages, if any);

(xii) after completion of any offer to repurchase Notes pursuant to Section 4.06 (including the purchase of all Notes tendered), any purchase or redemption of any Indebtedness of the Issuer or any Subsidiary Guarantor that is contractually subordinated to the Notes or to any Note Guarantee that is required to be repurchased or redeemed pursuant to the terms thereof as a result of such Asset Sale, at a purchase price not greater than 100% of the outstanding principal amount thereof (plus accrued and unpaid interest and liquidated damages, if any);

(xiii) purchases of receivables pursuant to a Receivables Repurchase Obligation in connection with a Qualified Receivables Financing;

(xiv) the redemption, repurchase, retirement, defeasance or other acquisition of any Disqualified Stock of the Issuer in exchange for, or out of the net cash proceeds of a substantially concurrent sale of, Disqualified Stock of the Issuer or any Restricted Subsidiaries Incurred in accordance with Section 4.03;

(xv) payments or distributions to satisfy dissenters' rights, pursuant to or in connection with a consolidation, merger or transfer of assets that complies with the provisions of this Indenture applicable to consolidations, mergers and transfers of all or substantially all of the property and assets of the Issuer;

(xvi) the purchase, redemption, acquisition, cancellation or other retirement for a nominal value per right of any rights granted to all holders of common stock of the Issuer pursuant to any shareholders' rights plan adopted for the purpose of protecting shareholders from unfair takeover tactics;

(xvii) other Restricted Payments in an aggregate amount which, taken together with all other Restricted Payments made pursuant to the provision described in this clause (xvi), do not exceed the greater of (a) \$100.0 million or (b) 3.75% of the Total Assets (determined as of the date of any Restricted Payment pursuant to this clause (xvi));

(xviii) the payment by the Issuer of dividends on its Capital Stock following a public offering of such Capital Stock in an amount not to exceed in any fiscal year of the Issuer 4.0% of Market Capitalization; and

(xix) any Restricted Payment so long as, after giving pro forma effect to such Restricted Payment, the Total Leverage Ratio of the Issuer would be equal to or less than 3.50 to 1.00; *provided*, that in the case of clauses (vii), (xvii), (xviii) and (xix) of this Section 4.04(b), no Default or Event of Default has occurred and is continuing or would occur as a consequence thereof.

(c) In determining the extent to which any Restricted Payment may be limited or prohibited by this Section 4.04, the Issuer and its Restricted Subsidiaries may allocate all or any portion of such Restricted Payment among the categories described in clauses (i) through (xix) of Section 4.04(b) or among such categories and the types described in Section 4.04(a); *provided* that, at the time of such allocation, all such Restricted Payments, or allocated portions thereof, would be permitted under the various provisions of this Section 4.04.

(d) As of the Issue Date, all of the Issuer's Subsidiaries will be Restricted Subsidiaries. The Issuer will not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the definition of "Restricted Subsidiary." In the event of any designation of a Restricted Subsidiary as an Unrestricted Subsidiary, the Issuer will be deemed to have made an Investment in such Subsidiary in an amount determined as set forth in the last sentence of the definition of "Investments." Such designation will only be permitted if such Investment would be permitted by this Section 4.04 at such time and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

Section 4.05 Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries. The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:



- (a) (x) pay dividends or make any other distributions to the Issuer or any of its Restricted Subsidiaries (1) on its Capital Stock or (2) with respect to any other interest or participation in, or measured by, its profits or (y) pay any Indebtedness owed to the Issuer or any of its Restricted Subsidiaries;
- (b) make loans or advances to the Issuer or any of its Restricted Subsidiaries; or
- (c) sell, lease or transfer any of its properties or assets to the Issuer or any of its Restricted Subsidiaries;

except in each case for such encumbrances or restrictions existing under or by reason of:

- (i) contractual encumbrances or restrictions as in effect on the Issue Date, including pursuant to the Credit Agreement and Existing Indebtedness, and any amendments, modifications, restatements, renewals, increases, extensions, supplements, refundings, replacements or refinancings thereof; provided that the encumbrances and restrictions in any such amendments, modifications, restatements, renewals, increases, extensions, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, than those in effect on the Issue Date;
- (ii) (a) this Indenture, (b) the Notes and (c) Guarantees of the Notes;
- (iii) applicable law or any applicable rule, regulation or order;
- (iv) any agreement or other instrument of a Person acquired by the Issuer or any Restricted Subsidiary which was in existence at the time of such acquisition or at the time it merges with or into the Issuer or any of its Restricted Subsidiaries or assumed in connection with the acquisition of assets from such Person (but, in any such case, not created in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired or assets so assumed;
- (v) any restriction with respect to a Restricted Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of all or substantially all the Capital Stock or assets of such Restricted Subsidiary pending the closing of such sale or disposition;
- (vi) any agreements creating a Lien securing Indebtedness otherwise permitted to be incurred pursuant to Section 4.12, to the extent limiting the right of the Issuer or any of its Restricted Subsidiaries to dispose of the assets subject to such Liens;
- (vii) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;
- (viii) customary provisions with respect to dispositions or distributions of assets or property in joint venture agreements, asset sale agreements, stock sale agreements and other similar agreements entered into in the ordinary course of business;

(ix) purchase money obligations for property acquired in the ordinary course of business that impose restrictions of the nature discussed in clause (c) above on the property so acquired;

(x) customary provisions contained in leases, licenses and other similar agreements entered into in the ordinary course of business that impose restrictions of the type described in clause (c) above on the property subject to such lease;

(xi) other Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary of the Issuer that is (a) Incurred by a Guarantor subsequent to the Issue Date pursuant to Section 4.03 or (b) Incurred by a Foreign Subsidiary of the Issuer subsequent to the Issue Date pursuant to Section 4.03; *provided*, in the case of clause (a), (i) such encumbrances or restrictions are ordinary and customary with respect to the type of Indebtedness being Incurred and (ii) such encumbrances or restrictions will not materially affect the Issuer's ability to make payments of principal or interest payments on the Notes, as determined at the time such Indebtedness, Disqualified Stock or Preferred Stock is Incurred in good faith by the chief financial officer, chief accounting officer or treasurer of the Issuer;

(xii) Refinancing Indebtedness permitted under the terms of this Indenture; *provided*, that the restrictions contained in the agreements governing such Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(xiii) any encumbrance or restriction of a Receivables Subsidiary effected in connection with a Qualified Receivables Financing; *provided*, *however*, that such restrictions apply only to such Receivables Subsidiary; and

(xiv) any encumbrances or restrictions of the type referred to in clauses (a), (b) and (c) above imposed by any extensions, amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i) through (xiii) above; *provided* that such extensions, amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Issuer, no more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such extension, amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 4.06 Asset Sales. (a) The Issuer will not, and will not permit any of its Restricted Subsidiaries to, cause or make an Asset Sale, unless (1) the Issuer or any of its Restricted Subsidiaries, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value (as determined in good faith by the Issuer) of the assets or Equity Interests issued or sold or otherwise disposed of and (2) except in the case of Permitted Asset Swaps, at least 75% of the consideration therefor received by the Issuer or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; *provided* that the amount of:

(i) any liabilities (as shown on the Issuer's or such Restricted Subsidiary's most recent balance sheet or in the notes thereto) of the Issuer or such Restricted Subsidiary (other than liabilities that are by their terms subordinated to the Notes or any Note Guarantee) that are assumed by the transferee of any such assets pursuant to a customary novation or indemnity agreement that release the Issuer or such Restricted Subsidiary from or indemnifies against further liability,

(ii) any notes or other obligations or other securities or assets received by the Issuer or such Restricted Subsidiary of the Issuer from such transferee that are converted by the Issuer or such Restricted Subsidiary into cash within 180 days of the receipt thereof (to the extent of the cash received), and

(iii) any Designated Non-cash Consideration received by the Issuer or such Restricted Subsidiary in such Asset Sale having an aggregate Fair Market Value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (c) that is at the time outstanding, not to exceed the greater of (i) \$100.0 million or (ii) 4.00% of Total Assets at the time of the receipt of such Designated Non-cash Consideration (with the Fair Market Value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value),

shall be deemed to be Cash Equivalents for the purposes of this Section 4.06(a).

(b) Within 365 days after the receipt of the Net Proceeds of an Asset Sale, the Issuer or a Restricted Subsidiary of the Issuer may apply the Net Proceeds from such Asset Sale:

(i) to repay, repurchase or redeem Indebtedness and other Obligations under a Credit Facility that are secured by a Lien and, if the Indebtedness repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto;

(ii) to repay, repurchase or redeem Indebtedness and other Obligations of a Restricted Subsidiary that is not a Guarantor, other than Indebtedness owed to the Issuer or another Restricted Subsidiary;

(iii) to repay, repurchase or redeem other Indebtedness of the Issuer or any Guarantor (other than any Disqualified Stock or any Indebtedness that is contractually subordinated in right of payment to the Notes), other than Indebtedness owed to the Issuer or a Restricted Subsidiary; *provided* that the Issuer shall equally and ratably redeem or repurchase the Notes as described in Article Three through open market purchases (to the extent such purchases are at or above 100% of the principal amount thereof) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all Holders to purchase the Notes at 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, on the amount of Notes that would otherwise be prepaid;

(iv) to make an investment in any one or more businesses (*provided* that if such investment is in the form of the acquisition of Capital Stock of a Person, such acquisition results in such Person becoming a Restricted Subsidiary of the Issuer), assets, or property or capital expenditures, in each case used or useful in a Similar Business;

(v) to make an investment in any one or more businesses (*provided* that if such investment is in the form of the acquisition of Capital Stock of a Person, such acquisition results in such Person becoming a Restricted Subsidiary of the Issuer), properties or assets that replace the businesses, properties and/or assets that are the subject of such Asset Sale; or

(vi) any combination of the foregoing;

(vii) *provided* that the Issuer will be deemed to have complied with the provisions described in clauses (iv) and (v) above of this Section 4.06(b), as applicable, if, within 365 days of such Asset Sale, the Issuer or a Restricted Subsidiary, as applicable, shall have entered into a definitive agreement covering such Investment which is thereafter completed within 180 days after the first anniversary of such Asset Sale.

(c) Any Net Proceeds from Asset Sales that are not applied or invested as described in Section 4.06(b) will constitute "**Excess Proceeds**." Within 10 days after the aggregate amount of Excess Proceeds exceeds \$75.0 million, the Issuer will make an Asset Sale Offer to all holders of Notes and all holders of other Indebtedness that is *pari passu* with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase with the proceeds of sales of assets to purchase, prepay or redeem the maximum principal amount of Notes and such other *pari passu* Indebtedness (plus all accrued interest on such Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith) that may be purchased, prepaid or redeemed out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount of the Notes and such other *pari passu* Indebtedness, plus accrued and unpaid interest, if any, on the Notes and such other *pari passu* Indebtedness to the date of purchase, prepayment or redemption, subject to the rights of holders of Notes on the relevant record date to receive interest due on the relevant interest payment date, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Issuer may use such Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and such other *pari passu* Indebtedness tendered in (or required to be prepaid or redeemed in connection with) such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select the Notes and the Issuer shall select such other *pari passu* Indebtedness to be purchased on a pro rata basis, based on the amounts tendered or required to be prepaid or redeemed (with such adjustments as may be deemed appropriate by the Issuer so that only Notes in denominations of \$2,000, or an integral multiple of \$1,000 in excess thereof, will be purchased), subject to applicable DTC procedures with respect to Global Notes. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

Pending final application of such Net Proceeds, the Issuer or any Restricted Subsidiary may temporarily reduce borrowings under the Credit Facilities or any other revolving credit facility, if any, or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture.

(d) Not later than the date upon which written notice of an Asset Sale Offer is delivered to the Trustee as provided above, the Issuer shall deliver to the Trustee an Officer's Certificate as to (i) the amount of the Excess Proceeds, (ii) the allocation of the Net Proceeds from the Asset Sales pursuant to which such Asset Sale Offer is being made and (iii) the compliance of such allocation with the provisions of Section 4.06(b). On such date, the Issuer shall also irrevocably deposit with the Trustee or with a paying agent (or, if the Issuer or a Wholly Owned Restricted Subsidiary of the Issuer is acting as the Paying Agent, segregate and hold in trust) an amount equal to the Excess Proceeds to be invested in Cash Equivalents, as directed in writing by the Issuer, and to be held for payment in accordance with the provisions of this Section 4.06. Upon the expiration of the period for which the Asset Sale Offer remains open (the "*Asset Sale* Offer Period"), the Issuer shall deliver to the Trustee for cancellation the Notes or portions thereof that have been properly tendered to and are to be accepted by the Issuer. The Trustee (or the Paying Agent, if not the Trustee) shall, on the date of purchase, mail or deliver payment to each tendering Holder in the amount of the purchase price. In the event that the Excess Proceeds delivered by the Issuer to the Trustee are greater than the purchase price of the Notes tendered, the Trustee shall deliver the excess to the Issuer immediately after the expiration of the Asset Sale Offer Period for application in accordance with Section 4.06.

(e) Holders electing to have a Note purchased shall be required to surrender the Note, with an appropriate form duly completed, to the Issuer at the address specified in the notice at least three (3) Business Days prior to the purchase date. Holders shall be entitled to withdraw their election if the Trustee or the Issuer receives not later than one Business Day prior to the Purchase Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note which was delivered by the Holder for purchase and a statement that such Holder is withdrawing his election to have such Notes purchased. If at the end of the Asset Sale Offer Period more Notes and such other *pari passu* Indebtedness are tendered pursuant to an Asset Sale Offer than the Issuer is required to purchase, selection of such Notes for purchase shall be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which such Notes are listed, or if such Notes are not so listed, on a pro rata basis, by lot or by such other method as the Trustee shall deem fair and appropriate (and in such manner as complies with applicable legal requirements and the requirements of the Depositary, if applicable); *provided* that no Notes of \$2,000 or less shall be purchased in part. Selection of such other *pari passu* Indebtedness shall be made pursuant to the terms of such other *pari passu* Indebtedness.

(f) Notices of an Asset Sale Offer shall be sent to the Depositary in accordance with Applicable Procedures or mailed by first class mail, postage prepaid, or sent electronically pursuant to applicable DTC procedures with respect to the global Notes at least 30 but not more than 60 days before the purchase date to each Holder of Notes (with a copy to the Trustee) at such Holder's registered address. If any Note is to be purchased in part only, any notice of purchase that relates to such Note shall state the portion of the principal amount thereof that has been or is to be purchased.

(g) A new Note in principal amount equal to the unpurchased portion of any Note purchased in part shall be issued in the name of the Holder (or transferred by book entry) upon cancellation of the original Note. On and after the purchase date, unless the Issuer defaults in payment of the purchase price, interest shall cease to accrue on Notes or portions thereof purchased.

Section 4.07 Transactions with Affiliates. (a) The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of transactions, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Issuer (each of the foregoing, an "Affiliate Transaction") involving aggregate payments or consideration in excess of \$20.0 million, unless:

(i) such Affiliate Transaction is on terms that are not, taken as a whole, materially less favorable to the Issuer or the relevant Restricted Subsidiary than those that could have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with a Person that is not an Affiliate; and

(ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$50.0 million, the Issuer delivers to the Trustee a resolution adopted in good faith by the majority of the disinterested members of the Board of Directors of the Issuer, approving such Affiliate Transaction and set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with clause (i) above.

(b) The provisions of Section 4.07(a) shall not apply to the following:

(i) (a) transactions between or among the Issuer and/or any of its Restricted Subsidiaries and (b) any merger of the Issuer and any direct parent company of the Issuer; *provided* that such parent company shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Capital Stock of the Issuer and such merger is otherwise in compliance with the terms of this Indenture and effected for a bona fide business purpose;

(ii) Restricted Payments permitted by Section 4.04 and the definition of Permitted Investments;

(iii) the payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, current or former officers, directors, employees or consultants of the Issuer or any Restricted Subsidiary or any direct or indirect parent company of the Issuer, as determined by the Board of Directors of the Issuer;

(iv) any agreement or arrangement as in effect as of the Issue Date or any amendment, modification or supplement thereto or any replacement thereof so long as any such agreement or arrangement as so amended, modified, supplemented or replaced, taken as a whole, is not more disadvantageous to the Issuer and its Restricted Subsidiaries in any material respect than the original agreement as in effect on the Issue Date or any transaction contemplated by any of the foregoing agreements or arrangements;

(v) (a) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Indenture, which are fair to the Issuer and its Restricted Subsidiaries in the reasonable determination of the Board of Directors or the senior management of the Issuer, and are on terms that, taken as a whole, are not materially less favorable to the Issuer or the relevant Restricted Subsidiary than those that might reasonably have been obtained at such time from a Person that is not an Affiliate, (b) transactions with joint ventures or Unrestricted Subsidiaries for the purchase or sale of chemicals, products, equipment and services entered into in the ordinary course of business and in a manner consistent with past practice or (c) any management services or support agreements entered into on terms consistent with past practice or in the ordinary course of business or approved by a majority of the Board of Directors of the Issuer;

- (vi) the issuance or sale of Equity Interests, other than Disqualified Stock, of the Issuer to any Affiliate or to any director, officer, employee or consultant of the Issuer, any direct or indirect parent company of the Issuer or any Subsidiary of the Issuer;
- (vii) the grant of stock options or similar rights to officers, employees, consultants and directors of the Issuer, any direct or indirect parent company of the Issuer or any of its Restricted Subsidiaries, pursuant to plans approved by the Board of Directors of the Issuer and the issuance of securities pursuant thereto;
- (viii) advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business;
- (ix) any transactions effected as part of a Qualified Receivables Transaction;
- (x) any employment, consulting, service or termination agreements, or reasonable and customary indemnification arrangements, entered into by the Issuer or any of its Restricted Subsidiaries with officers and employees of the Issuer, any direct or indirect parent company of the Issuer or any of its Restricted Subsidiaries and the payment of compensation to officers, employees, consultants and directors of the Issuer, any direct or indirect parent company of the Issuer or any of its Restricted Subsidiaries, including amounts paid pursuant to employee benefit plans, employee stock option or similar plans, in each case in the ordinary course of business and approved by the Board of Directors of the Issuer;
- (xi) the entering into of customary agreements providing registration rights to the direct or indirect shareholders of the Issuer and the performance of such agreements;
- (xii) transactions between the Issuer or any of its Restricted Subsidiaries and any Person that is an Affiliate solely because one or more of its directors is also a director of the Issuer or any direct or indirect parent company of the Issuer; *provided* that such director abstains from voting as a director of the Issuer or such direct or indirect parent company, as the case may be, on any matter involving such other Person;
- (xiii) transactions in which the Issuer or any of its Restricted Subsidiaries, as the case may be, delivers to the Trustee a letter from an independent accounting or appraisal firm or investment bank of national reputation stating that such transaction is fair to the Issuer or such Restricted Subsidiary from a financial point of view or stating that the terms are not materially less favorable to the Issuer or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with a Person that is not an Affiliate; and

(xiv) transactions described in ACCO's current public filings (limited to its 10-K, 10-Qs, 8-Ks and annual proxy statement) with the SEC on the Issue Date.

Section 4.08 Change of Control. (a) Upon the occurrence of a Change of Control, each Holder of Notes shall have the right to require the Issuer to repurchase all or any part (equal to \$2,000 or an integral multiple of \$1,000 in excess thereof) of such Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest thereon, to the date of purchase, subject to the rights of the Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date, in accordance with the terms contemplated in this Section 4.08; *provided, however*, that notwithstanding the occurrence of a Change of Control, the Issuer shall not be obligated to purchase Notes pursuant to this Section 4.08 in the event that the Issuer has exercised its right to redeem such Notes in accordance with Article Three of this Indenture. In the event that at the time of such Change of Control the terms of other senior Indebtedness restrict or prohibit the repurchase of Notes pursuant to this Section 4.08, then prior to the mailing of the notice to the Holders provided for in Section 4.08(b) but in any event within 30 days following any Change of Control, the Issuer shall (i) repay in full all other senior Indebtedness or, if doing so will allow the purchase of Notes, offer to repay in full all such other senior Indebtedness, as the case may be, and repay such senior Indebtedness of each lender who has accepted such offer, or (ii) obtain the requisite consent under the agreements governing such senior Indebtedness to permit the repurchase of the Notes as provided for in Section 4.08(b).

(b) Within 30 days following any Change of Control, except to the extent the Issuer has exercised its right to redeem Notes in accordance with Article Three of this Indenture, the Issuer will mail (or with respect to global Notes, to the extent permitted or required by applicable DTC procedures or regulations, send electronically) a notice (a "**Change of Control Offer**") to each Holder of Notes with a copy to the Trustee stating:

(i) that a Change of Control has occurred and that such Holder has the right to require the Issuer to repurchase such Holder's Notes at a repurchase price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest to the date of repurchase (subject to the right of the Holders of record on the relevant record date to receive interest on the relevant interest payment date);

(ii) the circumstances and relevant facts and financial information regarding such Change of Control;

(iii) the repurchase date (which shall be no earlier than 30 days nor later than 60 days from the date such notice is mailed or sent); and

(iv) the instructions determined by the Issuer, consistent with this Section 4.08, that a Holder must follow in order to have its Notes purchased.

(c) If holders of Notes of not less than 90% in the aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in a Change of Control Offer and the Issuer, or any third party making a Change of Control Offer in lieu of the Issuer as described below, purchases all of the Notes validly tendered and not withdrawn by such holders, the Issuer or such third party will have the right, upon not less than 30 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem all Notes that remain outstanding following such purchase at a price in cash equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest, if any, to, but excluding, the date of purchase, subject to the right of holders of the Notes of record on the relevant record date to receive interest due on the relevant interest payment date.



(d) Holders electing to have a Note purchased shall be required to surrender the Note, with an appropriate form duly completed, to the Issuer at the address specified in the notice at least three (3) Business Days prior to the purchase date. The Holders shall be entitled to withdraw their election if the Trustee or the Issuer receives not later than one (1) Business Day prior to the purchase date a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Note purchased. Holders whose Notes are purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered.

(e) On the purchase date, all Notes purchased by the Issuer under this Section shall be delivered to the Trustee for cancellation, and the Issuer shall pay (or cause to be paid) the purchase price plus accrued and unpaid interest, to the Holders entitled thereto.

(f) A Change of Control Offer may be made in advance of a Change of Control, and conditioned upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making the Change of Control Offer.

(g) Notwithstanding the foregoing provisions of this Section, the Issuer shall not be required to make a Change of Control Offer upon a Change of Control if (i) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in Section 4.08 and elsewhere in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer or (ii) a notice of redemption has been given prior to the Change of Control pursuant to Section 3.08, unless and until there is a default in payment of the applicable redemption price.

(h) Notes repurchased by the Issuer pursuant to a Change of Control Offer will have the status of Notes issued but not outstanding or will be retired and canceled at the option of the Issuer. Notes purchased by a third party pursuant to the preceding clause (g) will have the status of Notes issued and outstanding.

(i) At the time the Issuer delivers Notes to the Trustee which are to be accepted for purchase, the Issuer shall also deliver an Officer's Certificate stating that such Notes are to be accepted by the Issuer pursuant to and in accordance with the terms of this Section 4.08. A Note shall be deemed to have been accepted for purchase at the time the Trustee or Paying Agent, directly or through an agent, mails or delivers payment therefor to the surrendering Holder.

(j) Prior to any Change of Control Offer, the Issuer shall deliver to the Trustee an Officer's Certificate stating that all conditions precedent contained herein regarding the right or obligation of the Issuer to make such Change of Control Offer have been complied with.

Section 4.09 Compliance Certificate.

(a) The Issuer shall deliver to the Trustee, within 120 days after the end of each fiscal year ending after the Issue Date, an Officer's Certificate stating that a review of the activities of the Issuer and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Issuer has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to his or her knowledge, the Issuer has kept, observed, performed and fulfilled its obligations under this Indenture and is not in Default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Issuer is taking or proposes to take with respect thereto) and that to his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest (if any) on the Notes is prohibited or if such event has occurred, a description of the event and what action the Issuer is taking or proposes to take with respect thereto.

(b) The Issuer shall, so long as any of the Notes are outstanding, deliver to the Trustee, within five Business Days after any Officer becomes aware of any Default or Event of Default, an Officer's Certificate specifying such Default or Event of Default and what action the Issuer is taking or proposes to take with respect thereto.

Section 4.10 Further Instruments and Acts. Upon request of the Trustee, the Issuer shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

Section 4.11 Note Guarantees. (a) If the Issuer or any of its Restricted Subsidiaries acquires or creates any other Domestic Subsidiary or Subsidiaries (other than an Excluded Subsidiary) on or after the date of this Indenture, then each such newly acquired or created Domestic Subsidiary must become a Guarantor and (i) execute a supplemental indenture and (ii) deliver an Opinion of Counsel to the Trustee, in each case, within 30 days of the date of such acquisition or creation.

(b) The Issuer will not permit any of its Restricted Subsidiaries (other than the Issuer), directly or indirectly, to Guarantee or pledge any assets to secure the payment of any Indebtedness of the Issuer or any Subsidiary Guarantor (including, but not limited to, any Indebtedness under any Credit Facility) unless such Restricted Subsidiary is a Guarantor or within 30 days executes and delivers a supplemental indenture providing for the Guarantee of the payment of the Notes by such Restricted Subsidiary, which Guarantee shall be senior in right of payment to such Subsidiary's Guarantee of such other Indebtedness if such other Indebtedness is subordinated to the Notes or Note Guarantees, as applicable, or *pari passu* in right of payment with such Subsidiary's Guarantee of such other Indebtedness in all other instances. In addition, in the event that any Restricted Subsidiary that is an Excluded Subsidiary ceases to be an Excluded Subsidiary, then such Restricted Subsidiary must become a Guarantor and execute a supplemental indenture and deliver an Opinion of Counsel to the Trustee within 30 days of the date of such event. The form of the Supplemental Indenture is attached as Exhibit B and the form of the Note Guarantee is attached as Exhibit C.

(c) Notwithstanding Section 4.11(a), any Note Guarantee may provide by its terms that it will be automatically and unconditionally released and discharged under the circumstances described under Section 11.08.

Section 4.12 Liens. The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or otherwise cause or suffer to exist or become effective any Lien of any kind securing Indebtedness on any property or assets now owned or hereafter acquired or on any income or profits therefrom other than, in each case, Permitted Liens, unless the Notes and the Note Guarantees, as applicable, are,

(i) in the case of any Lien securing an Obligation that ranks pari passu with the Notes or a Note Guarantee, effective provision is made to secure the Notes or such Note Guarantee, as the case may be, at least equally and ratably with or prior to such Obligation with a Lien on the same properties or assets of the Issuer or such Restricted Subsidiary, as the case may be; and

(ii) in the case of any Lien securing an Obligation that is subordinated in right of payment to the Notes or a Note Guarantee, effective provision is made to secure the Notes or such Note Guarantee, as the case may be, with a Lien on the same properties or assets of the Issuer or such Restricted Subsidiary, as the case may be, that is prior to the Lien securing such subordinated obligation.

Notwithstanding the foregoing, any Lien securing the Notes granted pursuant to this Section 4.12 shall be automatically and unconditionally released and discharged upon (a) the release by the holders of the Indebtedness described above of their Lien on the property or assets of the Issuer or any Restricted Subsidiary (including any deemed release upon payment in full of all obligations under such Indebtedness, except payment in full made with the proceeds from the foreclosure, sale or other realization from an enforcement on the collateral by the holders of the Indebtedness described above of their Lien), (b) any sale, exchange or transfer to any Person other than the Issuer or any Restricted Subsidiary of the property or assets secured by such Lien, or of all of the Capital Stock held by the Issuer or any Restricted Subsidiary in, or all or substantially all the assets of, any Restricted Subsidiary creating such Lien in each case in accordance with the terms of this Indenture, (c) payment in full of the principal of, and accrued and unpaid interest, if any, on the Notes, or (d) a defeasance or discharge of the Notes in accordance with the procedures of Article Eight or Article Ten.

Section 4.13 Maintenance of Office or Agency. (a) The Issuer will maintain an office or agency (which may be an office of the Trustee or Registrar or an affiliate of the Trustee or Registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The Issuer shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the corporate trust office of the Trustee as set forth in Section 12.02.

(b) The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain an office or agency for such purposes. The Issuer shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

(c) The Issuer hereby designates the corporate trust office of the Trustee or its Paying Agent as such office or agency of the Issuer in accordance with Section 2.04.

Section 4.14 Limitation on Business Activities. The Issuer will not, and will not permit any of its Restricted Subsidiaries to, engage in any business other than Similar Businesses, except to such extent as would not be material to the Issuer and its Restricted Subsidiaries taken as a whole.

Section 4.15 Taxes. The Issuer shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, any taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes. The obligations in this Section 4.15 shall survive any termination, defeasance or satisfaction and discharge of the Notes.

Section 4.16 Covenant Suspension. (a) If on any date following the Issue Date (i) the Notes have an Investment Grade Rating from at least two Rating Agencies and (ii) no Default or Event of Default has occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a “Covenant Suspension Event”), then beginning on that day and subject to the provisions of the following paragraph, the following covenants will be suspended:

- (1) Section 4.03,
- (2) Section 4.04,
- (3) Section 4.05,
- (4) Section 4.06,
- (5) Section 4.07, and
- (6) Section 5.01(a)(iii)

(collectively, the “*Suspended Covenants*”). The period during which covenants are suspended pursuant to this Section 4.16 is called the “Suspension Period.” The Issuer will promptly deliver to the Trustee an Officer’s Certificate stating the occurrence or termination of any Suspension Period.

The Trustee shall have no obligation to independently determine or verify if such events have occurred or notify the Holders of any Covenant Suspension Event, Suspended Covenants or termination of any Suspension Period. The Trustee may provide a copy of such Officer's Certificate to any holder of Notes upon request. During any period that the Issuer and its Restricted Subsidiaries are not subject to the Suspended Covenants, the Issuer may not designate any of its Subsidiaries as Unrestricted Subsidiaries pursuant to the second sentence of the definition of "Unrestricted Subsidiary." Additionally, upon the occurrence of a Covenant Suspension Event, the amount of Excess Proceeds from Net Proceeds shall be reset to zero.

(b) If and while the Issuer and its Restricted Subsidiaries are not subject to the Suspended Covenants, the Notes will be entitled to substantially less covenant protection. In the event that the Issuer and its Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the first sentence of the preceding paragraph and, subsequently, one of the Rating Agencies withdraws its ratings or downgrades the rating assigned to the Notes so that the Notes no longer have Investment Grade Ratings from at least two Rating Agencies or a Default or Event of Default occurs and is continuing, then the Issuer and the Restricted Subsidiaries will from such time and thereafter again be subject to the Suspended Covenants; *provided* that (1) compliance with the Suspended Covenants with respect to Restricted Payments made after the time of such withdrawal, Default or Event of Default will be calculated in accordance with the terms of Section 4.04 as though such covenant had been in effect prior to, but not during, the Suspension Period; (2) all Indebtedness incurred, or Disqualified Stock issued, during the Suspension Period will be classified to have been incurred or issued pursuant to Section 4.03(b)(iii); (3) any Affiliate Transaction entered into after the time of such withdrawal, Default or Event of Default pursuant to an agreement entered into during any Suspension Period shall be deemed to be permitted pursuant to Section 4.07(b)(iv); and (4) any encumbrance or restriction on the ability of any Restricted Subsidiary that is not a Guarantor to take any action described in Section 4.05(a) - (c) shall be deemed to be permitted pursuant to Section 4.05(c)(i). Notwithstanding the foregoing and any other provision of this Indenture, the Notes or the Note Guarantees, no Default or Event of Default shall be deemed to exist under this Indenture, the Notes or the Note Guarantees with respect to the Suspended Covenants based on, and none of the Issuer or any of its Restricted Subsidiaries shall bear any liability with respect to the Suspended Covenants for, (a) any actions taken or events occurring during a Suspension Period (including without limitation any agreements, Liens, preferred stock, obligations (including Indebtedness), or of any other facts or circumstances or obligations that were incurred or otherwise came into existence during a Suspension Period) or (b) any actions required to be taken at any time pursuant to any contractual obligation entered into during a Suspension Period, regardless of whether such actions or events would have been permitted if the applicable Suspended Covenants remained in effect during such period.

#### **ARTICLE FIVE** **SUCCESSORS**

Section 5.01 Merger, Consolidation or Sale of Assets. (a) The Issuer will not, directly or indirectly: (1) consolidate or merge with or into another Person (whether or not the Issuer is the surviving corporation) or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties and assets of the Issuer and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person or Persons, unless:

(i) either: (a) the Issuer is the surviving corporation; or (b) the Person formed by or surviving such consolidation or merger (if other than the Issuer) or to which such sale, assignment, transfer, conveyance or other disposition shall have been made (i) is a corporation, limited liability company or partnership organized or existing under the laws of the United States, any state thereof or the District of Columbia (*provided* that if such Person is a limited liability company or partnership, (A) a corporate Wholly Owned Restricted Subsidiary of such Person organized or existing under the laws of the United States, any state thereof or the District of Columbia, or (B) a corporation of which such Person is a Wholly Owned Restricted Subsidiary organized or existing under the laws of the United States, any state thereof or the District of Columbia, in each case is a co-issuer of the Notes or becomes a co-issuer of the Notes in connection therewith) and (ii) assumes all the obligations of the Issuer under the Notes and this Indenture pursuant to a supplemental indenture reasonably satisfactory to the Trustee;

(ii) immediately after giving effect to such transaction no Default or Event of Default exists;

(iii) immediately after giving effect to such transaction on a pro forma basis, (a) the Issuer or the Person formed by or surviving any such consolidation or merger (if other than the Issuer), or to which such sale, assignment, transfer, conveyance or other disposition shall have been made, will, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to Incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.03(a) or (b) the Fixed Charge Coverage Ratio for the Issuer or the Person formed by or surviving any such consolidation or merger (if other than the Issuer), or to which such sale, assignment, transfer, conveyance or other disposition shall have been made, as applicable, would be equal to or greater than the Fixed Charge Coverage Ratio for the Issuer and its Restricted Subsidiaries immediately prior to such transaction; and

(iv) each Subsidiary Guarantor, unless such Guarantor is the Person with which the Issuer has entered into a transaction under this Section 5.01, shall have by amendment to its Note Guarantee confirmed that its Note Guarantee shall apply to the obligations of such surviving Person in accordance with the Notes and this Indenture.

(b) The Issuer shall deliver, or cause to be delivered, to the Trustee an Officer's Certificate and an Opinion of Counsel, each to the effect that such consolidation, merger, sale, conveyance, assignment, transfer, lease or other disposition complies with the requirements of the Indenture, and an Opinion of Counsel stating that the Indenture and Subsidiary Guarantees constitute legal, valid and binding obligations of the Guarantor or surviving entity, as applicable, subject to customary exceptions.

(i) In addition, the Issuer will not, directly or indirectly, lease all or substantially all of the properties or assets of the Issuer and its Restricted Subsidiaries considered as one entity, in one or more related transactions, to any other Person. The provisions described in clauses (2) and (3) of the immediately preceding paragraph will not apply to any merger, consolidation or sale, assignment, lease, transfer, conveyance or other disposition of assets (1) between or among the Issuer or any of its Restricted Subsidiaries and the Issuer or (2) if the sole purpose of the transaction is to change the jurisdiction of incorporation of the Issuer or to form a holding company for the Issuer (*provided* that such holding company becomes a Guarantor).

Section 5.02 Successor Corporation Substituted. Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Issuer in accordance with Section 5.01, the successor Person formed by such consolidation or into or with which the Issuer is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, the provisions of this Indenture referring to the “Issuer” shall refer instead to the successor Person and not to the Issuer), and may exercise every right and power of, the Issuer under this Indenture with the same effect as if such successor Person had been named as the Issuer herein; *provided, however*, that the Issuer shall not be relieved from the obligation to pay the principal of, and premium (if any), interest (if any) on, the Notes except in the case of a sale, assignment, transfer, conveyance or other disposition of all of the Issuer’s assets that meets the requirements of Section 5.01.

**ARTICLE SIX**  
**DEFAULTS AND REMEDIES**

Section 6.01 Events of Default. Each of the following is an event of default (an “*Event of Default*”):

- (a) a Default for 30 consecutive days in any payment when due of interest, if any, on the Notes,
- (b) a Default in the payment when due (at maturity, upon redemption or otherwise) of principal of, or premium, if any, on, the Notes,
- (c) the Issuer or any of its Restricted Subsidiaries fails to comply with its obligations under Article Five,
- (d) the Issuer or any of its Restricted Subsidiaries fails to comply with any other agreements in this Indenture; *provided* a default under this clause (4) will not constitute an Event of Default until the Trustee notifies the Issuer or the holders of at least 30% in principal amount of the then-outstanding Notes notify the Issuer and the Trustee of the Default and such Default is not cured within 60 days of such notice (120 days in the case of a failure to comply with the provisions described under Section 4.02).
- (e) Default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer or any of its Significant Subsidiaries (or the payment of which is guaranteed by the Issuer or any of its Significant Subsidiaries) whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture (other than Indebtedness owing to the Issuer or a Significant Subsidiary of the Issuer), if that Default:

(i) is caused by a failure to make any payment when due at the final maturity, upon required repurchase, upon declaration or otherwise (after any applicable grace period) of such Indebtedness; or

(ii) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Default under Section 6.01(e)(i), or the maturity of which has been so accelerated, aggregates \$60.0 million or more,

(f) the Issuer or any Restricted Subsidiary of the Issuer that is a Significant Subsidiary (or any group of Restricted Subsidiaries of the Issuer that, taken as a whole, would constitute a Significant Subsidiary) pursuant to or within the meaning of any Bankruptcy Law:

(i) commences a voluntary case;

(ii) consents to the entry of an order for relief against it in an involuntary case;

(iii) consents to the appointment of a Custodian of it for any substantial part of its property;

(iv) makes a general assignment for the benefit of its creditors or takes any comparable action under any foreign laws relating to insolvency; or

(v) admits it is insolvent or admits in writing its inability to pay its debts as they become due,

(g) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Issuer, any Restricted Subsidiary of the Issuer that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary in an involuntary case;

(ii) appoints a Custodian of the Issuer, any Restricted Subsidiary of the Issuer that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary for all or substantially all of the property of the Issuer or for any such Restricted Subsidiary; or

(iii) orders the liquidation or winding up of the Issuer, any Restricted Subsidiary of the Issuer that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary;

or any similar relief is granted under any foreign laws and the order or decree remains unstayed and in effect for 60 consecutive days,



(h) failure by the Issuer or any Significant Subsidiary of the Issuer to pay final judgments aggregating in excess of \$60.0 million or its foreign currency equivalent (net of any amounts which are covered by enforceable insurance policies issued by solvent carriers, and for which the carrier(s) have acknowledged coverage in writing), which judgments are not discharged, waived or stayed for a period of 60 days, and

(i) any Note Guarantee of the Issuer or a Guarantor that is a Significant Subsidiary ceases to be in full force and effect (except as contemplated by the terms thereof) or the Issuer or any Guarantor denies or disaffirms its obligations under this Indenture or any Note Guarantee and such event continues for ten (10) days.

(j) The foregoing shall constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

The term “*Custodian*” means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

A Default under clause (d) or (e) above shall not constitute an Event of Default until the Trustee notifies the Issuer or the Holders of at least 30% in principal amount of the outstanding Notes notify the Issuer and the Trustee of the Default and the Issuer does not cure such Default within the time specified in clause (d) and (e) above after receipt of such notice. Such notice must specify the Default, demand that it be remedied and state that such notice is a “*Notice of Default*.” The Issuer shall deliver to the Trustee, within ten (10) days after the occurrence thereof, written notice in the form of an Officer’s Certificate of any event which is, or with the giving of notice or the lapse of time or both would become, an Event of Default, its status and what action the Issuer is taking or proposes to take with respect thereto.

Section 6.02 Acceleration. If an Event of Default (other than an Event of Default specified in Section 6.01(f) or Section 6.01(g)) occurs and is continuing, the Trustee or the Holders of at least 30% in principal amount of the then-outstanding Notes by notice to the Issuer (and also the Trustee if given by the Holders) may declare the principal of, premium, if any, and accrued but unpaid interest, if any, on all the Notes to be immediately due and payable (a “*Declaration*”). Upon such a Declaration, such principal and interest shall be due and payable immediately. If an Event of Default specified in Section 6.01(f) or Section 6.01(g) occurs, the principal of, premium, if any, and interest, if any, on all the Notes will become immediately due and payable without Declaration, Notice of Default or other act on the part of the Trustee or any Holders. The Holders of a majority in principal amount of the then-outstanding Notes (the “*Majority Holders*”) by notice to the Trustee may rescind an acceleration due to a Declaration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived except nonpayment of principal or interest that has become due solely because of acceleration and all amounts owing to the Trustee have been paid. No such rescission shall affect any subsequent Default or impair any right consequent thereto.

Section 6.03 Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy at law or in equity to collect the payment of principal of, or premium (if any), interest, if any, on, the Notes or to enforce the performance of any provision of the Notes or this Indenture. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless each such Holder shall have offered to the Trustee and the Trustee shall have received, if requested, security, pre-funding and/or indemnity satisfactory to it against any loss, costs, liability or expense that might be incurred by it in connection with the request or direction.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. To the extent required by law, all available remedies are cumulative.

Section 6.04 Waiver of Past Defaults. Provided the Notes are not then due and payable by reason of a Declaration, the Majority Holders by written notice to the Trustee may, on behalf of the Holders of all of the Notes, waive any existing Default or Event of Default and its consequences except a continuing Default or Event of Default in the payment of the principal of, or premium (if any), interest ,if any, on, a Note. The Issuer shall deliver to the Trustee an Officer's Certificate stating that the requisite percentage of Holders have consented to such waiver and attaching copies of such consents. In case of any such waiver, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights hereunder and under the Notes, respectively. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 Control by Majority. The Majority Holders have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or this Indenture or, subject to Section 7.01, that the Trustee determines is unduly prejudicial to the rights of any other Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such directions are unduly prejudicial to such Holders) or that would involve the Trustee in personal liability; *provided, however*, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action under this Indenture in relation to the Notes, the Trustee shall be entitled to security or indemnification from the Holders satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking such action.

Section 6.06 Limitation on Suits. (a) Except to bring suit to enforce the right to receive payment of principal of, premium (if any), interest (if any) on any Notes on or after the due date expressed in the Notes or this Indenture (which right shall not be impaired or affected without the consent of the Holder), no Holder may pursue any remedy with respect to this Indenture or the Notes unless:

- (i) such Holder has previously given the Trustee notice that an Event of Default is continuing,
- (ii) Holders of at least 30% in principal amount of the then-outstanding Notes make a written request to the Trustee to pursue the remedy,

- (iii) such Holder or Holders have offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense,
- (iv) the Trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity to it, and
- (v) the Majority Holders have not given the Trustee a direction inconsistent with such request within such 60-day period.

(b) A Holder may not use this Indenture to prejudice the rights of another Holder of Notes or to obtain a preference or priority over another Holder of Notes (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such directions are unduly prejudicial to such Holders).

Section 6.07 Rights of the Holders to Receive Payment. Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to bring suit to enforce the right to receive payment of the principal of, premium (if any), interest (if any) on, such Note, on or after the due date expressed in the Notes shall not be impaired or affected without the consent of the Holder; *provided* that a Holder shall not have the right to institute any such suit for the enforcement of payment if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the Lien of this Indenture upon any property subject to such Lien.

Section 6.08 Collection Suit by Trustee. If an Event of Default specified in Section 6.01(a) or Section 6.01(b) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Issuer or any other obligor on the Notes for the whole amount then due and owing (together with interest on overdue principal and premium (if any) and on any unpaid interest (to the extent lawful), including, if any, at the rate provided for in Section 4.01 and the Notes) and the amounts provided for in Section 7.06.

Section 6.09 Trustee May File Proofs of Claim. The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for compensation, expenses, disbursements and advances of the Trustee (including counsel, accountants, experts or such other professionals as the Trustee deems necessary, advisable or appropriate)) and the Holders allowed in any judicial proceedings relative to the Issuer or any Guarantor (or any other obligor upon the Notes), their creditors or their property, shall be entitled to participate as a member, voting or otherwise, of any official committee of creditors appointed in such matters and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.06. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 hereof out of the estate in any such proceeding, shall be unpaid for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Section 6.10 Priorities. If the Trustee collects any money or property pursuant to this ARTICLE Six, or after an Event of Default any moneys or properties that are distributable in respect of the Issuer's or any Guarantor's obligations under this Indenture, shall be paid out or distributed in the following order::

FIRST: to the Trustee for amounts due under Section 7.06;

SECOND: to the Holders for amounts due and unpaid on the Notes for principal, premium, if any, interest, if any, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, and interest, if any,; and

THIRD: to the Issuer or, to the extent the Trustee collects any amount for any Guarantor, to such Guarantor or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to the Holders pursuant to this Section. At least 15 days before such record date, the Trustee shall mail to each Holder and the Issuer a notice that states the record date, the payment date and amount to be paid.

Section 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 10% in aggregate principal amount of the then-outstanding Notes.

Section 6.12 Waiver of Stay, Extension and Usury Laws. The Issuer and each Guarantor covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Issuer and each Guarantor (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 6.13 Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article Six or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

**ARTICLE SEVEN**  
**TRUSTEE**

Section 7.01 Duties of Trustee. Except to the extent, if any, *provided* otherwise in the TIA (as from time to time in effect):

- (a) If an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.
- (b) Except during the continuance of an Event of Default:
- (i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and
- (ii) the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein).
- (c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:
- (i) this paragraph does not limit the effect of Section 7.01(b);
- (ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and
- (iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 or exercising any trust or power conferred upon the Trustee under this Indenture with respect to the Notes.
- (d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 7.01.
- (e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in exercise of any of its rights or powers. The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer.

(g) Money and other property held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(h) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section and the provisions of this Article Seven shall apply to the Trustee in its role as Registrar, Paying Agent and Notes Custodian.

Section 7.02 Rights of Trustee. (a) The Trustee may conclusively rely on any document (whether in its original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, or to establish matters, it may require an Officer's Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officer's Certificate or Opinion of Counsel.

(c) The Trustee may act through agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within the rights or powers conferred upon it by this Indenture; *provided, however,* that the Trustee's conduct does not constitute willful misconduct or negligence.

(e) The Trustee may consult with counsel of its own selection (at the reasonable expense of the Issuer) and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, debenture, note or other paper or document unless requested in writing to do so by the Holders of not less than a majority in principal amount of the Notes at the time outstanding, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney, at the expense of the Issuer and shall incur no liability of any kind by reason of such inquiry or investigation.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee and the Trustee shall have received, if requested, security or indemnity satisfactory to the Trustee against the costs, expenses and liabilities (including reasonable attorneys' fees) which might be incurred by it in compliance with such request or direction.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be compensated, reimbursed and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(i) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by an Officer of the Issuer.

(j) The permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as a duty unless so specified herein.

(k) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(l) The Trustee shall not be required to take notice or be deemed to have notice of any Default or Event of Default hereunder unless a Responsible Officer has actual knowledge thereof, or the Trustee shall be notified in writing of such Default or Event of Default by the Issuer or by the Holders of at least 30% of the aggregate principal amount of Notes then outstanding, at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(m) The Trustee may request that the Issuer deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(n) The Trustee may rely on the information provided to it to comply with Section 6045 of the Code in connection with any proposed exchange of a Global Note for a Certificated Note described in Section 2.07. The Trustee shall have no responsibility to verify or ensure the accuracy of such information.

Section 7.03 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may become a creditor of, or otherwise deal with, the Issuer or any of its Affiliates with the same rights it would have if it were not Trustee. The Trustee is subject to Section 7.09 and Section 7.10.

Section 7.04 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture, any Note Guarantee or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes or for any funds received and disbursed in accordance with this Indenture, and it shall not be responsible for any statement of the Issuer or any Guarantor in this Indenture, the Offering Memorandum or any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication. The Trustee shall not be charged with knowledge of any Default or Event of Default (except those Defaults or Events of Default described in Section 6.01(a) or Section 6.01(b)) or of the identity of any Significant Subsidiary of the Issuer unless either (a) a Responsible Officer shall have actual knowledge thereof or (b) the Trustee shall have received written notice thereof in accordance with Section 12.02 hereof from the Issuer, any Guarantor or any Holder. For purposes of this Indenture and in relation to the Trustee, "actual knowledge" or "actually known" means the receipt of written notice of such Default or Event of Default without any duty to make any investigation with regard thereto. The Trustee shall not be bound to ascertain or inquire as to the performance, observance, or breach of any covenants, conditions, representations, warranties or agreements on the part of the Issuer or the Guarantors. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Notes or the Note Guarantees. The Trustee shall not be responsible for and makes no representation as to any act or omission of any Rating Agency or any rating with respect to the Notes. The Trustee shall have no obligation to independently determine or verify if any event has occurred or notify the Holders of any event dependent upon the rating of the Notes, or if the rating on the Notes has been changed, suspended or withdrawn by any Rating Agency. The Trustee shall have no obligation to independently determine or verify whether any Asset Sale has occurred or any Asset Sale Offer with respect to the Notes is required, and whether any Change of Control has occurred or whether any Change of Control Offer with respect to the Notes is required.

Section 7.05 Notice of Defaults. If a Default or Event of Default occurs and is continuing and if it is actually known to the Trustee, the Trustee shall mail to each Holder notice of the Default or Event of Default within the earlier of 90 days after it occurs or 30 days after it is actually known to a Responsible Officer or written notice of it is received by the Trustee. Except in the case of a Default or Event of Default in the payment of principal of, or premium (if any), interest, if any, on, any Note, the Trustee may withhold from the Holders of Notes notice of any Default or Event of Default if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders.

Section 7.06 Compensation and Indemnity. The Issuer shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder in accordance with a written schedule provided by the Trustee to the Issuer and/or as otherwise agreed from time to time in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts. The Issuer and each Guarantor, jointly and severally, shall indemnify the Trustee against any and all loss, liability, claim, damage or expense (including reasonable attorneys' fees and expenses) incurred by or in connection with the acceptance or administration of Indenture, the exercise of its rights and powers, and the performance of its duties hereunder, including the costs and expenses (including reasonable attorneys' fees and expenses) of enforcing this Indenture or Note Guarantee against the Issuer or a Guarantor (including this Section 7.06) and defending itself against or investigating any claim (whether asserted by the Issuer, any Guarantor, any Holder or any other Person). The Trustee shall notify the Issuer and/or the Guarantors, as the case may be, promptly of any claim for which it may seek indemnity promptly upon obtaining actual knowledge thereof; *provided, however*, that any failure so to notify the Issuer and/or the Guarantors, as the case may be, shall not relieve the Issuer or any such Guarantor of its indemnity obligations hereunder. The Issuer shall defend the claim and the indemnified party shall provide reasonable cooperation at the Issuer's expense in the defense. Such indemnified parties may have separate counsel and the Issuer and the Guarantors, as applicable, shall pay the fees and expenses of such counsel; *provided, however*, that the Issuer shall not be required to pay such fees and expenses if it assumes such indemnified parties' defense and, in such indemnified parties' reasonable judgment, there is no conflict of interest between the Issuer and the Guarantors, as applicable, and such parties in connection with such defense; provided, further, that the Trustee may elect to defend such claim itself and any commercially reasonable costs incurred shall be for the account of the Issuer. The Issuer or and the Guarantors need not reimburse any expense or indemnify against any loss, liability or expense incurred by an indemnified party through such party's own willful misconduct or negligence as finally adjudicated by a court of competent jurisdiction. The Issuer and the Guarantors need not pay for any settlement made without their consent. All indemnifications and releases from liability granted hereunder to the Trustee shall extend to its officers, directors, employees, agents, successors and assigns.



To secure the Issuer's and the Guarantors' payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of and interest on particular Notes.

The Issuer's and the Guarantors' payment and indemnification obligations pursuant to this Section shall survive the satisfaction or discharge of this Indenture, any rejection or termination of this Indenture under any bankruptcy law or the resignation or removal of the Trustee. Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services after the occurrence of a Default or Event of Default specified in Section 6.01(f) or Section 6.01(g) with respect to the Issuer, the expenses are intended to constitute expenses of administration under the Bankruptcy Law.

"Trustee" for the purposes of this Section 7.06 shall include any predecessor Trustee and the Trustee in each of its capacities hereunder and each agent, custodian and other person employed to act hereunder; provided, however, that the negligence or willful misconduct of any Trustee hereunder shall not affect the rights of any other Trustee hereunder.

Section 7.07 Replacement of Trustee. (a) The Trustee may resign at any time upon 30 days' written notice by so notifying the Issuer. The Holders of a majority in principal amount of the then-outstanding Notes may remove the Trustee by so notifying the Trustee and the Issuer upon 30 days' notice in writing. The Issuer may remove the Trustee if:

- (i) the Trustee fails to comply with Section 7.09;
- (ii) the Trustee is adjudged bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (iii) a Custodian or other public officer takes charge of the Trustee or its property; or
- (iv) the Trustee otherwise becomes incapable of acting.

(b) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then- outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer. A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.07.

(c) A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Upon delivery of such acceptance, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to the Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee under this Indenture and the Notes to the successor Trustee, subject to the Lien provided for in Section 7.06.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer or the Holders of at least 10% in principal amount of the then-outstanding Notes may petition at the expense of the Issuer any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee fails to comply with Section 7.09), any Holder who has been a bona fide holder of a Note for at least six months may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) Notwithstanding the replacement of the Trustee pursuant to this Section, the Issuer's and the Guarantors' obligations under Section 7.06 shall continue for the benefit of the retiring Trustee.

Section 7.08 Successor Trustee by Merger. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture *provided* that the certificate of the Trustee shall have.

Section 7.09 Eligibility; Disqualification. There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trust powers, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$100.0 million as set forth in its most recent published annual report of condition. The Trustee shall at all times satisfy the requirements of TIA § 310(a).

Section 7.10 Preferential Collection of Claims Against the Issuer. The Trustee shall comply with TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated.

## **ARTICLE EIGHT** **DEFEASANCE**

Section 8.01 Option to Effect Legal Defeasance or Covenant Defeasance. The Issuer may, at the option of its Board of Directors evidenced by a Board Resolution set forth in an Officer's Certificate, at any time, elect to have either Section 8.02 or Section 8.03 be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article Eight. Notwithstanding anything to the contrary in this Article Eight, the Issuer's obligations in this Article Eight and Sections 2.04, 2.05, 2.06, 2.07, 2.08, 2.09 and 2.10 shall survive until the Notes have been paid in full.

Section 8.02 Legal Defeasance and Discharge. Upon the Issuer's exercise under Section 8.01 of the option applicable to this Section 8.02, the Issuer shall, subject to the satisfaction of the conditions set forth in Section 8.04, be deemed to have been discharged from its obligations with respect to all Notes and all obligations of the Guarantors shall be deemed to have been discharged with respect to their obligations under the Note Guarantees on the date the conditions set forth below are satisfied (hereinafter, "**Legal Defeasance**"). For this purpose, Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the Notes and the Guarantors shall be deemed to have paid and discharged the entire Indebtedness represented by the Note, which Notes and Note Guarantees shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 and the other Sections of this Indenture referred to in clauses (a) and (b) of this Section 8.02, and to have satisfied all their other obligations under the Notes, Note Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (a) the Issuer's obligations to pay (or cause to be paid from the trust fund described in Section 8.04) to Holders of outstanding Notes and as more fully set forth in such Section, payments in respect of the principal of, or premium, if any, interest, if any, on, such Notes when such amounts are due, (b) the Issuer's obligations with respect to the Notes under Article Two concerning temporary Notes, registration of Notes, mutilated, destroyed, lost or stolen Notes and the Issuer's obligations under Section 4.13, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Issuer's and the Guarantors' obligations in connection therewith and (d) this Article Eight. Subject to compliance with this Article Eight, the Issuer may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03. Upon the Issuer's exercise under Section 8.01 of the option applicable to this Section 8.02, subject to the satisfaction of the conditions set forth in Section 8.04, payment of the Notes so defeased may not be accelerated because of an Event of Default.

Section 8.03 Covenant Defeasance. Upon the Issuer's exercise under Section 8.01 of the option applicable to this Section 8.03, the Issuer and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04, be released from their obligations under the covenants contained in Sections 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.11, 4.12 and 4.14 and the operation of Section 5.01 and 12.03 of this Indenture with respect to the Notes on and after the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Issuer and the Guarantors may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Issuer's exercise under Section 8.01 of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04, Sections 6.01(c), (d), (e), (h), (i) and (j) shall not constitute Events of Default and shall not result in the related acceleration of the payment of the Notes as a result thereof.

Section 8.04 Conditions to Legal or Covenant Defeasance. The following shall be the conditions to the application of either Section 8.02 or Section 8.03 to the outstanding Notes:

(a) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Notes, cash in U.S. dollars, non callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants if Government Securities are delivered to the Trustee, to pay the principal of, interest, if any, and premium on the outstanding Notes on the Stated Maturity or on the applicable redemption date, as the case may be, and the Issuer must specify whether the Notes are being defeased to maturity or to a particular redemption date;

(b) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that (A) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the date of this Indenture, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Indebtedness) and the grant of any Lien securing such borrowing);

(e) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument to which the Issuer or any of its Subsidiaries is a party or by which the Issuer or any of its Subsidiaries is bound (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Indebtedness) and the grant of any Lien securing such borrowing);

(f) the Issuer must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of preferring the Holders of Notes over the other creditors of the Issuer with the intent of defeating, hindering, delaying or defrauding creditors of the Issuer or others;

(g) if the Notes are to be redeemed prior to their Stated Maturity, the Issuer must deliver to the Trustee irrevocable instructions to redeem all of the Notes on the specified redemption date; and

(h) the Issuer must deliver to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 Deposited Money and Government Securities to Be Held in Trust; Other Miscellaneous Provisions.

(a) Subject to Section 8.06, all money and Government Securities (including the proceeds thereof) deposited with the Trustee pursuant to and in compliance with Section 8.04 in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium (if any), interest, if any, but such money need not be segregated from other funds except to the extent required by law.

(b) The Issuer shall pay and indemnify the Trustee against payment of any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.04 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

(c) Notwithstanding anything to the contrary in this Article Eight, the Trustee or Paying Agent shall deliver or pay to the Issuer from time to time upon the request of the Issuer any money or Government Securities held by it as provided in Section 8.04 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which delivery shall only be required if Government Securities have been so deposited), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

(d) Before or after a deposit, the Issuer may make arrangements satisfactory to the Trustee for the redemption of the Notes at a future date in accordance with Article Three.

Section 8.06 Repayment to Issuer. Subject to any applicable escheat or other abandoned property law, the Trustee or Paying Agent shall pay to the Issuer upon written request any money held by them for the payment of principal of, premium (if any), interest, if any, on, any Note that remains unclaimed for two years after such amounts have become due and payable, and, thereafter, Holders entitled to the money must look to the Issuer for payment as a general creditor, and the Trustee and each Paying Agent shall have no further liability with respect to such monies.

Section 8.07 Reinstatement. If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with this Article Eight by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's and the Guarantors' obligations under this Indenture, the Notes and the Note Guarantees so discharged or defeased shall be revived and reinstated as though no deposit had occurred pursuant to this Article Eight and, in the case of a Legal Defeasance, the Guarantors' obligations under their respective Note Guarantees shall be revived and reinstated as though no deposit had occurred pursuant to this Article Eight, in each case until such time as the Trustee or Paying Agent is permitted to apply all such money or Government Securities in accordance with this Article Eight; *provided, however*, that, if the Issuer has made any payment of principal of, or premium (if any), interest (if any) on, any such Notes following the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

## ARTICLE NINE AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 9.01 Without Consent of the Holders.

(a) Notwithstanding Section 9.02, the Issuer, the Guarantors, and the Trustee may amend or supplement this Indenture, the Notes or the Note Guarantees without the consent of any Holder of a Note:

- (i) to cure any ambiguity, omission, mistake, defect or inconsistency;
- (ii) to provide for uncertificated Notes in addition to or in place of certificated Notes; *provided* that such Notes are issued in registered form for purposes of Section 163(f) of the Code;
- (iii) to provide for the assumption of the Issuer's or any Guarantor's obligations to Holders of Notes in the case of a merger or consolidation or sale of all or substantially all of the Issuer's or such Guarantor's assets, in either case as permitted by Section 4.11 or Section 5.01;
- (iv) to make any change that would provide any additional rights or benefits to the Holders of Notes or that does not adversely affect the legal rights under this Indenture of any such Holder;

(v) to comply with Section 4.11, *provided* that any such supplemental indenture need be signed only by the Issuer, the added Guarantor, and the Trustee;

(vi) to conform the text of this Indenture, the Notes or the Note Guarantees to any provision of the section of the Offering Memorandum entitled “Description of Notes” to the extent that such provision in the “Description of Notes” was intended to be a verbatim recitation of a provision of this Indenture, the Notes or the Note Guarantees;

(vii) to evidence and provide for the acceptance of appointment by a successor Trustee (*provided* that the successor Trustee is otherwise qualified and eligible to act as such under this Indenture);

(viii) to provide for the issuance of Additional Notes in accordance with this Indenture; or

(ix) to grant any Lien for the benefit of the Holders of the Notes.

(b) Upon the request of the Issuer accompanied by a Board Resolution authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of any documents requested under Section 7.02(b), the Trustee shall join with the Issuer and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained; *provided, however*, that the Trustee shall not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

After an amendment under this Article Nine becomes effective, the Issuer will mail or send to the Holders a notice briefly describing such amendment. The failure to give such notice to all Holders, or any defect therein, will not impair or affect the validity of an amendment under this Article Nine.

For the avoidance of doubt, no amendment to, or deletion of any of the covenants described under ARTICLE Four, or action taken in compliance with such covenants in effect at the time of such action, shall be deemed to make any change in the provisions of the indenture relating to the rights of any holders of the Notes to receive payments of principal of, premium on, if any, or interest, if any, on the Notes.

Section 9.02 With Consent of the Holders. (a) Except as otherwise provided in this Section 9.02, the Issuer, the Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Note Guarantees with the consent of the Holders of a majority in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or a tender offer or exchange offer for, Notes), and, subject to Section 6.04 and Section 6.07, any Default or Event of Default or non-compliance with, or requirement for future compliance with, any provision of this Indenture, the Notes or the Note Guarantees may be waived with the consent of the Holders of a majority in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or a tender offer or exchange offer for, Notes). However, without the consent of each Holder of an outstanding Note affected, an amendment, supplement or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

- (i) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
- (ii) reduce the rate of or change the time for payment of interest on, any Note;
- (iii) reduce the principal of or change the Stated Maturity of any Note;
- (iv) waive or reduce any payment or premium payable upon the redemption of any Note or change the time at which any Note may be redeemed as described in Section 3.08 (other than the requirement to provide not less than 30 days' notice);
- (v) make any Note payable in money or currency other than that stated in such Note;
- (vi) impair the right of any Holder to bring suit to enforce the right to receive payment of principal of, or premium, if any, or interest on such Holder's Notes on or after the due dates therefor (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration);
- (vii) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, interest, if any, or premium, if any, on, the Notes;
- (viii) make any change in the amendment and waiver provisions herein which require each Holder's consent;
- (ix) release any Guarantor from any of its obligations under its Note Guarantee or this Indenture, except in accordance with the terms of this Indenture;
- (x) expressly subordinate such Note or any Note Guarantee to any other Indebtedness of the Issuer or any Guarantor or make any other change in the ranking or priority of any Note that would adversely affect the Holders;
- (xi) amend, change or modify the obligation of the Issuer to make and consummate an Asset Sale Offer with respect to any Asset Sale in accordance with Section 4.06 after the obligation to make such Asset Sale Offer has arisen, or the obligation of the Issuer to make and consummate a Change of Control Offer in the event of a Change of Control in accordance with Section 4.08 after such Change of Control has occurred, including, in each case, amending, changing or modifying any definition relating thereto;
- (xii) except as otherwise permitted under Section 4.11 and Section 5.01, consent to the assignment or transfer by the Issuer or any Guarantor of any of their rights or obligations under this Indenture; or



(xiii) waive a Default or Event of Default in the payment of principal of, premium on, if any, interest , if any, on, the Notes (except a rescission of acceleration of the Notes by the holders of at least a majority in aggregate principal amount of the then-outstanding Notes and a waiver of the payment default that resulted from such acceleration).

(b) The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Persons entitled to consent to any amendment, supplement or waiver of this Indenture. If a record date is fixed, the Holders on such record date, or their duly designated proxies, and only such Persons, shall be entitled to consent to such amendment, supplement or waiver, whether or not such Holders remain Holders after such record date; *provided* that, unless such consent shall have become effective by virtue of the requisite percentage having been obtained prior to the date which is 90 days after such record date, any such consent previously given shall automatically and without further action by any Holder be cancelled and of no further effect.

(c) Upon the request of the Issuer accompanied by a Board Resolution authorizing the execution of any such amendment, supplement or waiver of this Indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02(b), the Trustee shall join with the Issuer and the Guarantors in the execution of such amendment, supplement or waiver unless such amendment, supplement or waiver directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amendment, supplement or waiver.

(d) After an amendment, supplement or waiver under this Article Nine becomes effective, the Issuer shall mail to the Holders a notice briefly describing such amendment, supplement or waiver. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment, supplement or waiver under this Article Nine.

(e) It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

Section 9.03 Revocation and Effect of Consents and Waivers. Subject to Section 9.02(b), until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, subject to Section 9.02(b), any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder. An amendment, supplement or waiver becomes effective upon the (i) receipt by the Issuer, with copies of such consents provided to the Trustee, of consents by the Holders of the requisite principal amount of securities, (ii) satisfaction of conditions to effectiveness as set forth in this Indenture and any indenture supplemental hereto containing such amendment, supplement or waiver and (iii) execution of such amendment, supplement or waiver (or supplemental indenture) by the Issuer and the Trustee.

Section 9.04 Notation on or Exchange of Notes. If an amendment, supplement or waiver changes the terms of a Note, the Issuer may require the Holder of the Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note regarding the changed terms and return it to the Holder. Alternatively, if the Issuer or the Trustee so determines, the Issuer in exchange for the Note shall issue and, upon a written order of the Issuer signed by an Officer, the Trustee shall authenticate a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment, supplement or waiver.

Section 9.05 Trustee to Sign Amendments. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article Nine if such amendment, supplement or waiver does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment, supplement or waiver, the Trustee shall be entitled to receive and (subject to Section 7.01) shall be fully protected in relying upon, (i) an Officer's Certificate, (ii) and an Opinion of Counsel stating that such amendment, supplement or waiver is authorized or permitted by this Indenture and that such amendment, supplement or waiver is the legal, valid and binding obligation of the Issuer and the Guarantors, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof, (iii) if requested by the Trustee, a copy of the Board Resolution, certified by the Secretary or Assistant Secretary of the Issuer, authorizing the execution of such amendment, supplement or waiver and (iv) if such amendment, supplement or waiver is executed pursuant to Section 9.02, evidence reasonably satisfactory to the Trustee of the consent of the Holders required to consent thereto.

Section 9.06 Additional Voting Terms; Calculation of Principal Amount. All Notes issued under this Indenture shall vote and consent together on all matters (as to which any of such Notes may vote) as one class, and no right shall exist under the Notes to vote or consent as a class separate from one another on any matter. Determinations as to whether Holders of the requisite aggregate principal amount of Notes have concurred in any direction, waiver or consent shall be made in accordance with this Article Nine and Section 2.14.

Section 9.07 Effect of Supplemental Indentures. Upon the execution of any amended or supplemental indenture under this Article Nine, this Indenture shall be modified in accordance therewith, and such amended or supplemental indenture shall form a part of this Indenture for all purposes and every Holder of Notes theretofore or thereafter authenticated and delivered hereunder shall be bound thereby, unless such amended or supplemental indenture makes a change described in any of clauses (a) through (i) of the first paragraph of Section 9.02, in which case, such amended or supplemental indenture shall bind only each Holder of a Note who has consented to such amended or supplemental indenture and every subsequent Holder of a Note or portion of a Note that evidences the same indebtedness as the consenting Holder's Note.

**ARTICLE TEN**  
**SATISFACTION AND DISCHARGE**

Section 10.01 Satisfaction and Discharge.

(a) This Indenture will be discharged and will cease to be of further effect (except as to surviving rights and immunities of the Trustee and the Issuer's and Guarantors' obligations in connection therewith and rights of registration or transfer or exchange of Notes, as expressly provided for in this Indenture) as to all outstanding Notes when:

(i) either: (A) all the Notes that have been authenticated (except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust) and have been delivered to the Trustee for cancellation or (B) all of the Notes (I) have become due and payable, (II) will become due and payable at their Stated Maturity within one year or (III) if redeemable at the option of the Issuer, are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer, and the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in an amount sufficient, in the written opinion of a nationally recognized investment bank, appraisal firm, or independent public accounting firm delivered to the Trustee (but only if any Government Securities are so included), without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not theretofore delivered to the Trustee for cancellation, for principal of, premium and interest, if any, and interest on the Notes to the date of maturity or redemption together with irrevocable instructions from the Issuer directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be;

(ii) no Default or Event of Default shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and any similar deposit relating to other Indebtedness and, in each case, the granting of Liens to secure such borrowings) and such deposit will not result in a breach or violation of, or constitute a default under, any other material instrument (other than this Indenture) to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound (other than with respect to the borrowing of funds to be applied concurrently to make the deposit required to effect such satisfaction and discharge and any similar concurrent deposit relating to other Indebtedness, and, in each case, the granting of Liens to secure such borrowings);

(iii) the Issuer and/or the Guarantors have paid all other sums payable under this Indenture; and

(iv) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture relating to the satisfaction and discharge of this Indenture have been complied with.

(b) Notwithstanding the above, the Trustee shall pay to the Issuer from time to time upon its request any cash or Government Securities held by it as provided in this Section 10.01 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification delivered to the Trustee, are in excess of the amount thereof that would then be required to be deposited to effect a satisfaction and discharge under this Article Ten.

(c) After the conditions to discharge contained in this Article Ten have been satisfied, and the Issuer has paid or caused to be paid all other sums payable hereunder by the Issuer, and delivered to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that all conditions precedent to satisfaction and discharge have been satisfied, the Trustee upon written request shall acknowledge in writing the discharge of the obligations of the Issuer and the Guarantors under this Indenture (except for those surviving obligations specified in this Section 10.01).

Section 10.02 Deposited Money and Government Securities to Be Held in Trust; Other Miscellaneous Provisions. Subject to Section 10.03, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee pursuant to Section 10.01 in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal of, and premium (if any) and interest (if any) on, the Notes, but such money need not be segregated from other funds except to the extent required by law.

Section 10.03 Repayment to the Issuer. Subject to any applicable escheat or other abandoned property law, the Trustee or Paying Agent shall pay to the Issuer upon written request any money held by them for the payment of principal of, premium (if any) and interest (if any) on, any Note that remains unclaimed for two years after such amounts have become due and payable, and, thereafter, Holders entitled to the money must look to the Issuer for payment as a general creditor, and the Trustee and each Paying Agent shall have no further liability with respect to such monies.

## ARTICLE ELEVEN NOTE GUARANTEES

### Section 11.01 Guarantees.

(a) Subject to this ARTICLE Eleven, each Guarantor hereby jointly and severally, irrevocably and unconditionally guarantees, as a primary obligor and not merely as a surety, to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, regardless of the validity and enforceability of this Indenture, (i) the full and punctual payment when due, whether at Stated Maturity, by acceleration, by redemption or otherwise, of all obligations of the Issuer under this Indenture (including obligations to the Trustee) and the Notes, whether for payment of principal of, or premium (if any), interest (if any) on, the Notes and all other monetary obligations of the Issuer under this Indenture (including interest on the overdue principal of, premium (if any), interest (if any) on, the Notes, if lawful (subject in all cases to any applicable grace period provided herein)) and the Notes and (ii) the full and punctual performance within applicable grace periods of all other obligations of the Issuer whether for fees, expenses, indemnification or otherwise under this Indenture and the Notes (all the foregoing being hereinafter collectively called the "Guaranteed Obligations"). Each Guarantor further agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from each such Guarantor, and that each such Guarantor shall remain bound under this ARTICLE Eleven notwithstanding any extension or renewal of any Guaranteed Obligation.

(b) Each Guarantor waives presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer in relation to any of the Guaranteed Obligations and also waives notice of protest for nonpayment. Each Guarantor waives notice of any default under the Notes or the Guaranteed Obligations. The obligations of each Guarantor hereunder shall not be affected by (i) the failure of any Holder or the Trustee to assert any claim or demand or to enforce any right or remedy against the Issuer or any other Person under this Indenture, the Notes or any other agreement or otherwise; (ii) any extension or renewal of this Indenture, the Notes or any other agreement; (iii) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Notes or any other agreement; (iv) the release of any security held by any Holder or the Trustee for the Guaranteed Obligations or any Guarantor; (v) the failure of any Holder or Trustee to exercise any right or remedy against any other guarantor of the Guaranteed Obligations; (vi) the recovery of any judgment against the Issuer; (vii) any change in the ownership of such Guarantor, except as provided in Section 11.07 or Section 11.08 or (viii) any other circumstance which might constitute a legal or equitable discharge or defense of a Guarantor.

(c) In furtherance of the foregoing and not in limitation of any other right which any Holder or the Trustee has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Issuer to pay the principal of, premium (if any), interest (if any) on any Guaranteed Obligation when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, or to perform or comply with any other Guaranteed Obligation, each Guarantor hereby promises to and shall, upon receipt of written demand by the Trustee (or as directed by the Holders), forthwith pay, or cause to be paid, in cash, to the Holders or the Trustee an amount equal to the sum of (i) the unpaid principal of and premium (if any) on such Guaranteed Obligations, (ii) accrued and unpaid interest (if any), on such Guaranteed Obligations (but only to the extent not prohibited by applicable law) and (iii) all other monetary obligations of the Issuer to the Holders and the Trustee. Each Guarantor further agrees that its Note Guarantee herein constitutes a guarantee of payment, performance and compliance when due (and not a guarantee of collection) and waives any right to require that any resort be had by any Holder or the Trustee to any security held for payment of the Guaranteed Obligations.

(d) Each Guarantor hereby waives any right to which it may be entitled to have its obligations hereunder divided among the Guarantors, such that such Guarantor's obligations would be less than the full amount claimed. Each Guarantor hereby waives any right to which it may be entitled to have the assets of the Issuer in respect of such Guaranteed Obligations first be used and depleted as payment of the Issuer's or such Guarantor's obligations hereunder prior to any amounts being claimed from or paid by such Guarantor hereunder. Each Guarantor hereby waives any right to which it may be entitled to require that the Issuer be sued prior to an action being initiated against such Guarantor.

(e) Except as expressly set forth in Article Eight, Section 11.02 and Section 11.08, the obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder or the Trustee to assert any claim or demand or to enforce any remedy under this Indenture, the Notes or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of any Guarantor or would otherwise operate as a discharge of any Guarantor as a matter of law or equity.

(f) Each Guarantor agrees that its Note Guarantee shall remain in full force and effect until payment in full of all the Guaranteed Obligations. If any Holder or the Trustee is required by any court or otherwise to return to the Issuer, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Issuer or any Guarantor, any amount paid by any of them to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

(g) Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Guaranteed Obligations guaranteed hereby until payment in full of all Guaranteed Obligations. Each Guarantor further agrees that, as between it, on the one hand, and the Holders and the Trustee, on the other hand, (i) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated as provided in Article Six for the purposes of the Note Guarantee of such Guarantor, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such Guaranteed Obligations as provided in Article Six, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by such Guarantor for the purposes of the Note Guarantee of such Guarantor. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantee.

(h) Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Trustee or any Holder in enforcing any of its rights under this Section 11.01.

(i) Upon request of the Trustee, each Guarantor shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to more effectively carry out the purpose of this Indenture.

Section 11.02 Limitation on Guarantor Liability. Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of such Guarantor not constitute (i) a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law affecting the rights of creditors generally to the extent applicable to its Note Guarantee or (ii) an unlawful distribution under any applicable state law prohibiting stockholder distributions by an insolvent subsidiary to the extent applicable to its Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount as will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article Eleven, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent transfer or conveyance or such an unlawful stockholder distribution.

Section 11.03 Successors and Assigns. This Article Eleven shall be binding upon each Guarantor and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Notes shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions of this Indenture.

Section 11.04 No Waiver. Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article Eleven shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article Eleven at law, in equity, by statute or otherwise.

Section 11.05 Modification. No modification, amendment or waiver of any provision of this Article Eleven, nor the consent to any departure by any Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Guarantor in any case shall entitle such Guarantor to any other or further notice or demand in the same, similar or other circumstances.

Section 11.06 Execution and Delivery of Note Guarantees and Supplemental Indentures.

(a) To evidence its Note Guarantee set forth in Section 11.01, each Guarantor hereby agrees that a notation of such Note Guarantee substantially in the form attached as Exhibit C shall be endorsed by an Officer of such Guarantor by manual or facsimile signature on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by one of its Officers.

(b) Each Guarantor hereby agrees that its Note Guarantee set forth in Section 11.01 shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

(c) If an Officer whose signature is on this Indenture or on the Note Guarantee no longer holds that office at the time the Trustee authenticates the Note on which a Note Guarantee is endorsed, the Note Guarantee shall be valid nevertheless.

(d) The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Note Guarantee set forth in this Indenture on behalf of the Guarantors.

(e) In the event that the Issuer or any of its Restricted Subsidiaries acquires or creates another Domestic Subsidiary (other than an Excluded Subsidiary) on or after the Issue Date, or in the event that any Restricted Subsidiary that is an Excluded Subsidiary ceases to be an Excluded Subsidiary, if required by Section 4.11, the Issuer shall cause such Domestic Subsidiary or Restricted Subsidiary to become a Guarantor in accordance with Section 4.11 and this Article Eleven, to the extent applicable.

Section 11.07 Merger and Consolidation of Guarantors.

(a) A Subsidiary Guarantor may not (1) sell, assign, transfer, convey, lease or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Subsidiary Guarantor is the surviving Person), another Person, other than, in either such case, the Issuer or another Subsidiary Guarantor, unless:

(i) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(ii) either:

(1) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger (if other than the Subsidiary Guarantor) (A) is organized or existing under the laws of the United States, any state thereof or the District of Columbia (*provided* that this Section 11.07(a)(ii)(1)(A) shall not apply if such Subsidiary Guarantor is organized under the laws of a jurisdiction other than the United States, any state thereof or the District of Columbia) and (B) assumes all the obligations of that Subsidiary Guarantor under this Indenture, and its Note Guarantee pursuant to a supplemental indenture satisfactory to the Trustee; or

(2) such sale or other disposition or consolidation or merger complies with Section 4.06.

(b) In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Note Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by a Guarantor, such successor Person shall succeed to and be substituted for a Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Note Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Issuer and delivered to the Trustee. All the Note Guarantees so issued shall in all respects have the same legal rank and benefit under this Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Note Guarantees had been issued at the Issue Date.

(c) Except as set forth in Article Five, and notwithstanding clauses (i) and (ii) of Section 11.07(a), nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Guarantor with or into the Issuer or another Guarantor, or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Issuer or another Guarantor.



Section 11.08 Release of Guarantor.

(a) Any Guarantor (other than the Issuer) will be automatically released and relieved of any obligations under its Note Guarantee:

(i) in connection with any sale or other transfer or disposition of Capital Stock of a Guarantor to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Restricted Subsidiary of the Issuer, such that, immediately after giving effect to such transaction, such Guarantor would no longer constitute a Subsidiary of the Issuer, if the sale of such Capital Stock of that Guarantor complies with Section 4.06 and Section 4.04;

(ii) if the Issuer properly designates any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary under this Indenture;

(iii) the release or discharge of the guarantee by such Guarantor of Indebtedness under the Credit Agreement or, solely in the case of a Note Guarantee created pursuant to the second sentence of Section 4.11(b), upon the release or discharge of the Guarantee which resulted in the creation of such Note Guarantee pursuant to Section 4.11(b), except a discharge or release by or as a result of payment under such Guarantee; or

(iv) upon legal defeasance, covenant defeasance or satisfaction and discharge of this Indenture as provided under Article Eight and Article Ten hereof.

(v) The Issuer shall promptly notify the Trustee of the release of any Guarantor. Upon delivery by the Issuer to the Trustee of an Officer's Certificate and an Opinion of Counsel to the effect that one of the foregoing requirements has been satisfied and the conditions to the release of a Guarantor under this Section 11.08 have been met, the Trustee shall promptly execute any documents reasonably required in order to evidence the release of such Guarantor from its obligations under its Note Guarantee.

(b) Any Guarantor not released from its obligations under its Note Guarantee as provided in this Section 11.08 shall remain liable for the full amount of principal of, and premium (if any), interest (if any) on, the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article Eleven.

**ARTICLE TWELVE**  
**MISCELLANEOUS**

Section 12.01 [Reserved].

Section 12.02 Notices. (a) Any notice or communication required or permitted hereunder shall be in writing and delivered in person, via facsimile or mailed by first-class mail (registered or certified, return receipt requested) or overnight air courier guaranteeing next day delivery, addressed as follows:

if to the Issuer or a Guarantor:

ACCO Brands Corporation  
Kemper Lakes Business Center  
Building 4  
Four Corporate Drive  
Long Grove, Illinois 60047  
Facsimile No. 847-719-8904  
Phone No.: 847-796-4116  
Attention: Legal Department

with a copy to:

Vedder Price P.C.  
222 North LaSalle Street  
Chicago, Illinois 60601  
Attention: John T. Blatchford  
Facsimile: (312) 609-5005

if to the Trustee:

Wells Fargo Bank, National Association  
CTSO Mail Operations, MAC N9300-070  
600 South Fourth Street, Seventh Floor  
Minneapolis, MN 55415  
Attn: Corporate Trust Services, ACCO Brands Administrator

The Issuer, any Guarantor or the Trustee by notice to the others may designate additional or different addresses for subsequent notices or communications. All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; three Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by facsimile; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery. The Trustee shall have the right, but shall not be required, to rely upon and comply with instructions and directions sent by e-mail, facsimile and other similar unsecured electronic methods by persons believed by the Trustee to be authorized to give instructions and directions on behalf of the Issuer, the Guarantors or any Person. The Trustee shall have no duty or obligation to verify or confirm that the Person who sent such instructions or directions is, in fact, a Person authorized to give instructions or directions on behalf of the Issuer or Guarantors; and the Trustee shall have no liability for any losses, liabilities, costs or expenses incurred or sustained by the Issuer or Guarantors as a result of such reliance upon or compliance with such instructions or directions. The Issuer or Guarantors agree to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including, without limitation, the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

(b) Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. If the Issuer mails a notice or communication to Holders, it shall mail a copy to the Trustee at the same time.

(c) Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it, except that notices to the Trustee are effective only if received.

(d) Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance on such waiver.

(e) In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

(f) Where this Indenture or any Note provides for notice of any event (including any notice of redemption or repurchase) to a Holder of a Global Note (whether by mail or otherwise), such notice shall be sufficiently given if given to DTC (or its designee) pursuant to the standing instructions from DTC or its designee, including by electronic mail in accordance with DTC operational arrangements or other applicable DTC requirements.

Section 12.03 Communication by the Holders with Other Holders. Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Issuer, the Guarantors the Trustee, the Registrar and any other Person shall have the protection of TIA § 312(c).

Section 12.04 Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Issuer to the Trustee to take or refrain from taking any action under this Indenture, the Issuer shall furnish to the Trustee:

(a) an Officer's Certificate in form reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.05) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel (which shall include the statements set forth in Section 12.05) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been complied with.

Section 12.05 Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture shall include:

- (a) a statement that the Person making such certificate or opinion has read such covenant or condition;
- (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (d) a statement as to whether or not, in the opinion of such Person, such covenant or condition has been complied with; *provided, however*, that with respect to matters of fact an Opinion of Counsel may rely on an Officer's Certificate or certificates of public officials.

Section 12.06 Treasury Notes Disregarded. In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer, any Guarantor or by any Affiliate of the Issuer or of any Guarantor shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which the Trustee knows are so owned shall be so disregarded. Subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

Section 12.07 Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by or a meeting of the Holders. The Registrar and Paying Agent may make reasonable rules for their functions.

Section 12.08 Legal Holidays. If a payment date is not a Business Day, payment shall be made on the next succeeding day that is a Business Day, and no interest shall accrue on any amount that would have been otherwise payable on such payment date if it were a Business Day for the intervening period. If a regular record date is not a Business Day, the record date shall not be affected.

Section 12.09 GOVERNING LAW; JURY TRIAL WAIVER. THIS INDENTURE, THE NOTES AND THE NOTE GUARANTEES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES WHICH WOULD HAVE THE EFFECT OF APPLYING THE LAWS OF ANY OTHER JURISDICTION. EACH OF THE ISSUER, THE GUARANTORS AND THE TRUSTEE, AND BY ITS ACCEPTANCE THEREOF, EACH HOLDER OF A NOTE, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE GUARANTEES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 12.10 Consent to Jurisdiction. Any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated hereby may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York in each case located in the City of New York (collectively, the "*Specified Courts*"), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party's address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court has been brought in an inconvenient forum.

Section 12.11 No Recourse Against Others. No director, officer, employee, manager, incorporator or holder of any Equity Interests in the Issuer or of any Guarantor or any direct or indirect parent corporation, as such, shall have any liability for any obligations of the Issuer or the Guarantors under the Notes, this Indenture or the Note Guarantees for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release under this Section 12.11 are part of the consideration for issuance of the Notes and the Note Guarantees.

Section 12.12 Successors. All agreements of the Issuer and each Guarantor in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 12.13 Multiple Originals; Electronic Signatures. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes. This Indenture shall be valid, binding, and enforceable against a party when executed and delivered by an authorized individual on behalf of the party by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including any relevant provisions of the Uniform Commercial Code (collectively, "Signature Law"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each party hereto shall be entitled to conclusively rely upon, and shall have no liability with respect to, any faxed, scanned, or photocopied manual signature, or other electronic signature, of any other party and shall have no duty to investigate, confirm or otherwise verify the validity or authenticity thereof. This Indenture may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument. For the avoidance of doubt, original manual signatures shall be used for execution or indorsement of writings when required under the Uniform Commercial Code or other Signature Law due to the character or intended character of the writings.

Section 12.14 Table of Contents; Headings. The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 12.15 Indenture Controls. If and to the extent that any provision of the Notes limits, qualifies or conflicts with a provision of this Indenture, such provision of this Indenture shall control.

Section 12.16 Severability. In case any provision in this Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

Section 12.17 Benefit of Indenture. Nothing in this Indenture, the Notes or the Note Guarantees, express or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Registrar and its successors hereunder, and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 12.18 Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by the Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agents duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “*Act*” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Issuer if made in the manner provided in this Section 12.18.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to such witness, notary or officer the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) Notwithstanding anything to the contrary contained in this Section 12.18, ownership of Notes shall be proved by the register of the Notes maintained by the Registrar as provided in Section 2.04.

(d) If the Issuer shall solicit from the Holders of the Notes any request, demand, authorization, direction, notice, consent, waiver or other Act, the Issuer may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Issuer shall have no obligation to do so. Such record date shall be the record date specified in or pursuant to such resolution, which shall be a date not earlier than the date 30 days prior to the first solicitation of Holders generally in connection therewith or the date of the most recent list of Holders forwarded to the Trustee prior to such solicitation pursuant to Section 2.06 and not later than the date such solicitation is completed. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of the then outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the then outstanding Notes shall be computed as of such record date; *provided* that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than 11 months after the record date.

(e) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration or transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Issuer in reliance thereon, whether or not notation of such action is made upon such Note.

(f) Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Note may do so itself with regard to all or any part of the principal amount of such Note or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

Section 12.19 No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Issuer or any of its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.20 USA Patriot Act. The parties hereto acknowledge that in accordance with Section 326 of the USA Patriot Act the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the USA Patriot Act.

Section 12.21 Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including without limitation any act or provision of any present or future law or regulation or governmental authority, natural disaster, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, labor dispute, disease, epidemic or pandemic, quarantine, national emergency and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services, communications systems failure, malware or ransomware or other unavailability of the Federal Reserve Bank wire or facsimile or telex system or other funds transfer system or other wire or communication facility or unavailability of any securities clearing system.

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IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

**ACCO BRANDS CORPORATION.**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Senior Vice President, General Counsel and Corporate Secretary

**GUARANTORS:**

**ACCO EUROPE FINANCE HOLDINGS, LLC**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Vice President and Secretary

**ACCO INTERNATIONAL HOLDINGS, INC.**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Vice President and Secretary

**GBC INTERNATIONAL, INC.**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Vice President and Secretary

**ACCO BRANDS USA LLC**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Senior Vice President, General Counsel and Corporate Secretary

[Signature page to Indenture]

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**GENERAL BINDING LLC**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Secretary

**NESCHEN GBC GRAPHIC FILMS, LLC**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Supervisory Director

**ACCO BRANDS INTERNATIONAL, INC.**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Vice President and Secretary

**ACCO EUROPE INTERNATIONAL HOLDINGS, LLC**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Vice President and Secretary

**ESSELTE LLC**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Vice President and Secretary

**ESSELTE HOLDINGS LLC**

By: /s/Pamela R. Schneider  
Name: Pamela R. Schneider  
Title: Vice President and Secretary

[Signature page to Indenture]

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**ESSELTE U.S. FV LLC**

By /s/Pamela R. Schneider

Name: Pamela R. Schneider

Title: Vice President and Secretary

**ESSELTE EUROPEAN HOLDINGS, LLC**

By /s/Pamela R. Schneider

Name: Pamela R. Schneider

Title: Vice President and Secretary

[Signature page to Indenture]

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**WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee**

By: /s/Gregory S. Clarke

Name: Gregory S. Clarke

Title: Vice President

[Signature page to Indenture]

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PROVISIONS RELATING TO THE NOTES

1. Definitions.

1.1 Definitions.

For the purposes of this Appendix A the following terms shall have the meanings indicated below:

“**Definitive Note**” means a certificated Note (bearing the Restricted Notes Legend if the transfer of such Note is restricted by applicable law) registered in the name of the Holder thereof that does not include the Global Notes Legend.

“**Notes Custodian**” means the custodian with respect to a Global Note (as appointed by the Depositary) or any successor Person thereto, who shall initially be the Trustee.

“**Purchase Agreement**” means (a) the Purchase Agreement dated March 1, 2021, among the Issuer, the Guarantors and Barclays Capital Inc., as representatives of the Initial Purchasers and (b) any other similar Purchase Agreement relating to Additional Notes.

“**Regulation S**” means Regulation S promulgated under the Securities Act.

“**Regulation S Legend**” means the legend set forth in Section 2.2(g)(i) herein.

“**Restricted Definitive Note**” means any Restricted Note that is a Definitive Note.

“**Restricted Global Note**” means a Restricted Note that is a Global Note.

“**Restricted Note**” means any Note that bears or is required to bear or is subject to the Restricted Notes Legend or the Regulation S Legend.

“**Restricted Notes Legend**” means the legend set forth in Section 2.2(g)(i) herein.

“**Unrestricted Note**” means Definitive Notes and any other Notes that are not required to bear, or are not subject to, the Restricted Notes Legend or the Regulation S Legend.

“**Unrestricted Global Note**” means an Unrestricted Note that is a Global Note.

1.2 Other Definitions.

	<b>Defined Term in Section</b>
Agent Members	2.1(b)
Automatic Exchange	2.2(f)
Automatic Exchange Date	2.2(f)
Automatic Exchange Notice	2.2(f)
Automatic Exchange Notice Date	2.1(c)

2. The Notes.

2.1 Form and Dating.

- (a) Notes issued hereunder may be transferred or resold, as the case may be, pursuant to an exemption from the registration requirements of the Securities Act. Additional Notes offered after the date hereof may be offered and sold by the Issuer from time to time pursuant to one or more Purchase Agreements in accordance with applicable law.
- (b) Global Notes.
  - (i) Notes issued in global form will be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Upon the issuance of a Regulation S Global Note or a Rule 144A Global Note, (collectively, the “**Global Notes**” and each, a “**Global Note**”), the Depositary or its nominee will credit the accounts of Persons holding through it with the respective principal amounts of the Notes represented by such Global Note purchased by such Persons in the offering. Such accounts shall be designated by the Initial Purchasers. Ownership of beneficial interests in a Global Note will be limited to Participants or Indirect Participants (collectively, the “**Agent Members**”). Ownership of beneficial interests in a Global Note will be shown on, and the transfer of that ownership interest will be effected only through, records maintained by the Depositary (with respect to Participants’ interests) and such Participants (with respect to Indirect Participants’ interests). Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or, if the Notes Custodian and the Trustee are not the same Person, by the Notes Custodian at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.07 of the Indenture and Section 2.2 of this Appendix. The Issuer has entered into a letter of representations with DTC in the form provided by DTC and the Trustee and each Agent are hereby authorized to act in accordance with such letter and Applicable Procedures.

- (ii) So long as the Depositary is the registered owner of such Global Note, such Depositary will be considered the sole owner or Holder of the Notes represented by such Global Note for all purposes whatsoever, including under the Indenture and the Notes. Agent Members (x) will not be considered to be the owners or Holders of any Notes under the Indenture for any purpose and shall thus have no rights under the Indenture with respect to any Global Note held on their behalf by the Depositary, or the Trustee as its Notes Custodian, or under the Global Notes, and (y) except as set forth in Section 2.2 of this Appendix, will neither be entitled to have the Notes represented by such Global Note registered in their names nor will receive or be entitled to receive Definitive Notes. Accordingly, each Person owning a beneficial interest in a Global Note must rely on the procedures of the Depositary and, if such Person is not a Participant, on the procedures of the Participant through which such Person owns its interest, to exercise any rights of a Holder under the Indenture. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, the Trustee or any agent of the Issuer or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary, or impair, as between the Depositary and its Agent Members, the operation of customary practices governing the exercise of the rights of a Holder of any Note. The Issuer understands that under existing industry practices, in the event that the Issuer requests any action of Holders or that an owner of a beneficial interest in a Global Note desires to give or take any action which a holder is entitled to give or take under the Indenture, the Depositary would authorize the Participants holding the relevant beneficial interest to give or take such action and such Participants would authorize Indirect Participants owning through such Participants to give or take such action or would otherwise act upon the instructions of beneficial owners owning through them.
- (c) Regulation S Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as Notes Custodian for the Depositary, and registered in the name of the Depositary or the nominee of the Depositary, duly executed by the Issuer and authenticated by the Trustee as provided in the Indenture. The aggregate principal amount of the Regulation S Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depositary or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided. Prior to the expiration of the Restricted Period (as defined below), beneficial interests in the Regulation S Global Note may be held only by persons who are not U.S. persons for purposes of Rule 902 of Regulation S under the Securities Act, unless exchanged for interests in the Rule 144A Global Note in accordance with the transfer and certification requirements described below. “**Restricted Period**” means the period through and including the 40th day after the latest of the commencement of the offering described in the Offering Circular and the original Issue Date of the Notes. The Restricted Period shall be terminated pursuant to Applicable Procedures or upon the receipt by the Trustee of an Officer’s Certificate certifying that the Restricted Period may be terminated in accordance with Regulation S.

- (d) Definitive Notes. Notes issued in definitive form shall be substantially in the form of Exhibit A (but without the Global Note Legend thereon and without the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Definitive Notes will only be issued in compliance with, and under the circumstances described in, Section 2.07 of the Indenture and Section 2.2 of this Appendix.
- (e) Euroclear and Clearstream Procedures. The provisions of the “Operating Procedures of the Euroclear System” and “Terms and Conditions Governing Use of Euroclear” and the “General Terms and Conditions of Clearstream Banking” and “Customer Handbook” of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Global Notes that are held by Indirect Participants through Euroclear or Clearstream.

2.2 Transfer and Exchange.

- (a) Transfer and Exchange of Global Notes. A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes shall be exchanged by the Issuer for Definitive Notes if:
  - (i) the Depositary notifies the Issuer that it is unwilling or unable to continue as a depository for such Global Note or if at any time the Depositary ceases to be a clearing agency registered under the Exchange Act, and in either case, the Issuer fails to appoint a successor depository;



- (ii) the Issuer in its discretion at any time determines not to have any or all the Notes represented by such Global Note; or
- (iii) there shall have occurred and be continuing an Event of Default with respect to the Notes represented by such Global Note.

Upon the occurrence of any of the preceding events in clauses (i), (ii) or (iii) of this Section 2.2(a), Definitive Notes (x) shall be issued in fully registered form in such denominations and such names as the Depository shall instruct the Trustee in accordance with its customary procedures and (y) will bear the restrictive legend referred to in Section 2.2(g) of this Appendix, unless that legend is not required by applicable law. In such circumstance, the Global Note or Notes shall be deemed to be surrendered to the Trustee for cancellation, and the Issuer shall execute, and, upon a written order of the Issuer signed by an Officer, the Trustee shall authenticate and make available for delivery, to each beneficial owner identified by the Depository in writing in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Definitive Notes of authorized denominations. Payment of principal of, and premium, if any, and interest on, the Definitive Notes will be payable, and the transfer of the Definitive Notes will be registrable, at the office or agency of the Issuer maintained for such purposes; and no service charge will be made for any registration of transfer or exchange of the Definitive Notes, although the Issuer may require payment of a sum sufficient to cover any tax or governmental charge imposed in connection therewith.

Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.08 and 2.10 of the Indenture. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to Section 2.07 or 2.10 of the Indenture shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.2(a); however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.2(b), (c) or (f) of this Appendix.

- (b) Transfer and Exchange of Beneficial Interests in Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of the Indenture and the Applicable Procedures of the Depository. Beneficial interests in Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Beneficial interests in Global Notes shall be transferred or exchanged only for beneficial interests in Global Notes, except in the circumstances described in Section 2.2(a) of this Appendix. Transfers and exchanges of beneficial interests in the Global Notes also shall require compliance with either clause (i) or (ii) of this Section 2.2(b), as applicable, as well as one or more of the other following clauses of this Section 2.2(b), as applicable:
  - (i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Restricted Notes Legend; *provided, however,* that prior to the expiration of the Restricted Period, transfers of beneficial interests in a Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). A beneficial interest in an Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.2(b)(i).

- (ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests in any Global Note that are not subject to Section 2.2(b)(i) of this Appendix, the transferor of such beneficial interest must deliver to the Registrar either:
- (A) both (1) a written order from the Participant given to the Depositary in accordance with the Applicable Procedures of the Depositary directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures of the Depositary containing information regarding the Participant account to be credited with such increase; or
  - (B) provided that such transfers are otherwise allowed pursuant to Section 2.2(a) of this Appendix, both (1) a written order from an Participant given to the Depositary in accordance with the Applicable Procedures of the Depositary directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in subclause (1) of this Section 2.2(b)(ii)(B).
- (iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in a Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.2(b)(ii) above and the Registrar receives from the transferor a certificate in the form of Exhibit D to the Indenture.

- (iv) Transfer and Exchange of Beneficial Interests in an Unrestricted Global Note for Beneficial Interests in a Restricted Global Note. Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.
- (c) Transfer and Exchange of Beneficial Interests in Global Notes for Definitive Notes. A beneficial interest in a Global Note may not be exchanged for a Definitive Note except under the circumstances described in Section 2.2(a) of this Appendix. A beneficial interest in a Global Note may not be transferred to a Person who takes delivery thereof in the form of a Definitive Note except under the circumstances described in Section 2.2(a) of this Appendix. The Restricted Notes Legend shall be affixed to Restricted Definitive Notes issued as required by law.
- (d) Transfer and Exchange of Definitive Notes for Beneficial Interests in Global Notes. Transfers and exchanges of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i), (ii) or (ii) below, as applicable:
  - (i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Restricted Definitive Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:
    - (A) if the Holder of such Restricted Definitive Note proposes to exchange such Restricted Definitive Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit E to the Indenture;
    - (B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate from such Holder in the form of Exhibit D to the Indenture;
    - (C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate from such Holder in the form of Exhibit D to the Indenture;
    - (D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate from such Holder in the form of Exhibit D to the Indenture;

- (E) if such Restricted Definitive Note is being transferred to the Issuer or any of its Subsidiaries, a certificate from such Holder in the form of Exhibit D to the Indenture;

the Trustee shall cancel the Restricted Definitive Note, and increase or cause to be increased the aggregate principal amount of the appropriate Restricted Global Note.

- (ii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Unrestricted Definitive Note for a beneficial interest in an Unrestricted Global Note or transfer such Unrestricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes. If any such transfer or exchange is effected pursuant to this subparagraph (ii) at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an written order of the Issuer signed by an Officer, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of Unrestricted Definitive Notes transferred or exchanged pursuant to this subparagraph (ii).
- (iii) Unrestricted Definitive Notes to Beneficial Interests in Restricted Global Notes. An Unrestricted Definitive Note cannot be exchanged for, or transferred to a Person who takes delivery thereof in the form of, a beneficial interest in a Restricted Global Note.
- (e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.2(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.2(e).
- (i) Restricted Definitive Notes to Restricted Definitive Notes. A Restricted Definitive Note may be transferred to and registered in the name of a Person who takes delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

- (A) if the transfer will be made pursuant to Rule 144A, then the transferor must deliver a certificate in the form of Exhibit D to the Indenture;
- (B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit D to the Indenture;
- (C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit D to the Indenture;
- (D) if such transfer will be made to the Issuer or a Subsidiary thereof, a certificate in the form of Exhibit D to the Indenture.

Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives a certificate from such Holder in the form of Exhibit D to the Indenture,

and, if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Issuer to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act.

- (ii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of an Unrestricted Definitive Note may transfer such Unrestricted Definitive Note to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note at any time. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Note pursuant to the instructions from the Holder thereof.
- (iii) Unrestricted Definitive Notes to Restricted Definitive Notes. An Unrestricted Definitive Note cannot be exchanged for, or transferred to a Person who takes delivery thereof in the form of, a Restricted Definitive Note.

At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 of the Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

- (f) Automatic Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. Upon the Issuer's satisfaction that the Restricted Notes Legend shall no longer be required in order to maintain compliance with the Securities Act, beneficial interests in a Restricted Global Note may be automatically exchanged into beneficial interests in an Unrestricted Global Note without any action required by or on behalf of the Holder (the "**Automatic Exchange**") at any time on or after the date that is the 366th calendar day after (A) with respect to the Notes issued on the Issue Date, the Issue Date or (B) with respect to Additional Notes, if any, the issue date of such Additional Notes, or, in each case, if such day is not a Business Day, on the next succeeding Business Day (the "**Automatic Exchange Date**"). Upon the Issuer's satisfaction that the Restricted Notes Legend shall no longer be required in order to maintain compliance with the Securities Act, the Issuer may (i) provide written notice to the Trustee at least 10 calendar days prior to the Automatic Exchange, instructing the Trustee to direct the Depository to exchange all of the outstanding beneficial interests in a particular Restricted Global Note to the Unrestricted Global Note, which the Issuer shall have previously otherwise made eligible for exchange with DTC, (ii) provide prior written notice (the "**Automatic Exchange Notice**") to each Holder at such Holder's address appearing in the register of Holders at least 10 calendar days prior to the Automatic Exchange (the "**Automatic Exchange Notice Date**"), which notice must include (w) the Automatic Exchange Date, (x) the section of the Indenture pursuant to which the Automatic Exchange shall occur, (y) the "CUSIP" number of the Restricted Global Note from which such Holder's beneficial interests will be transferred and the (z) "CUSIP" number of the Unrestricted Global Note into which such Holder's beneficial interests will be transferred, and (iii) on or prior to the date of the Automatic Exchange, deliver to the Trustee for authentication one or more Unrestricted Global Notes, duly executed by the Issuer, in an aggregate principal amount equal to the aggregate principal amount of Restricted Global Notes to be exchanged. At the Issuer's request on no less than 5 calendar days' notice, the Trustee shall deliver, in the Issuer's name and at its expense, the Automatic Exchange Notice to each Holder at such Holder's address appearing in the register of Holders. Notwithstanding anything to the contrary in this Section 2.2(f), during the 10 day period between the Automatic Exchange Notice Date and the Automatic Exchange Date, no transfers or exchanges other than pursuant to this Section 2.2(f) shall be permitted without the prior written consent of the Issuer. As a condition to any Automatic Exchange, the Issuer shall provide, and the Trustee shall be entitled to rely upon, an Officers' Certificate reasonably acceptable to the Trustee to the effect that the Automatic Exchange shall be effected in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend shall no longer be required in order to maintain compliance with the Securities Act, and that the aggregate principal amount of the particular Restricted Global Note may be transferred to the particular Unrestricted Global Note by adjustment made on the records of the Trustee, as DTC Custodian to reflect the Automatic Exchange. Upon such exchange of beneficial interests pursuant to this Section 2.2(f), the aggregate principal amount of the Global Notes shall be increased or decreased by adjustments made on the records of the Trustee, as DTC Custodian, to reflect the relevant increase or decrease in the principal amount of such Global Note resulting from the applicable exchange. The Restricted Global Note from which beneficial interests are transferred pursuant to an Automatic Exchange shall be canceled following the Automatic Exchange.

(g) Legend.

- (i) Restricted Note Legend. Except as permitted by subparagraph(e)(ii), (g)(v), (g)(vi) or (g)(vii) of this Section 2.2, or unless otherwise agreed by the Issuer and the Holder, each Note certificate evidencing the Global Notes and the Definitive Notes (and all Notes issued in exchange therefor or in substitution thereof) issued otherwise than in reliance on Regulation S shall bear a legend (the “*Restricted Notes Legend*”) in substantially the following form (each defined term in the legend being defined as such for purposes of the legend only):

“THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS THE DATE ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED UNDER RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREOF, ONLY (A) TO THE ISSUER OR ANY SUBSIDIARY OF THE ISSUER, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A “QUALIFIED INSTITUTIONAL BUYER” AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUER’S AND THE TRUSTEE’S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.”

Each Definitive Note shall bear the following additional legend:

“IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRUSTEE SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH REGISTRAR AND TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.”

- (ii) Regulation S Legend. Except as permitted by subparagraph (e)(ii), (g)(v), (g)(vi), or (g)(vii) of this Section 2.2, or unless otherwise agreed by the Issuer and the Holder, each Note certificate evidencing the Global Notes and the Definitive Notes (and all Notes issued in exchange therefor or in substitution thereof) issued in reliance on Regulation S shall bear a legend (the “*Regulation S Legend*”) in substantially the following form (each defined term in the legend being defined as such for purposes of the legend only)



THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS THE DATE ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED UNDER RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREOF, ONLY (A) TO THE ISSUER OR ANY SUBSIDIARY OF THE ISSUER, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A “QUALIFIED INSTITUTIONAL BUYER” AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUER’S AND THE TRUSTEE’S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

(iii) Global Note Legend. Each Global Note shall bear an additional legend in substantially the following form:

“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.07 OR SECTION 9.04 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.2(b) OF THE APPENDIX TO THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE ISSUER.”

- (iv) Regulation S Global Note Legend. The Regulation S Global Note shall bear an additional legend in substantially the following form:

“THE RIGHTS ATTACHING TO THIS REGULATION S GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR CERTIFICATED NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN).”

- (v) Upon any sale or transfer of a Restricted Note that is a Definitive Restricted Note, the Registrar shall permit the Holder thereof to exchange such Restricted Note for a Definitive Note that does not bear the legends set forth above and rescind any restriction on the transfer of such Restricted Note if the Holder certifies in writing to the Registrar that its request for such exchange was made in reliance on Rule 144 (such certification to be in the form set forth on the reverse of the Note).
- (vi) Upon a sale or transfer after the expiration of the Restricted Period of any Note acquired pursuant to Regulation S, all requirements that such Note bear the Restricted Notes Legend shall cease to apply and the requirements requiring any such Note be issued in global form shall continue to apply.
- (vii) Any Additional Notes sold in a registered public offering shall not be required to bear the Restricted Notes Legend or the Regulation S Legend.
- (h) Cancellation or Adjustment of Global Note. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 of the Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on the Schedule of Exchanges of Interests with respect to such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on the Schedule of Exchanges of Interests with respect to such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) No Obligation of the Trustee.

- (i) The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a Participant in the Depositary or any other Person with respect to the accuracy of the records of the Depositary or its nominee or of any Participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any Participant, member, Indirect Participant or other Person (other than the Depositary) of any notice (including any notice of redemption or repurchase) or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to the Holders under the Notes shall be given or made only to the registered Holders (which shall be the Depositary in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through the Depositary subject to the applicable rules and procedures of the Depositary. The Trustee may rely and shall be fully protected in relying upon information furnished by the Depositary with respect to its members, Participants and Indirect Participants.
- (ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under the Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary Participants, members or Indirect Participants in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of the Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

**[FORM OF FACE OF GLOBAL NOTE]****[GLOBAL NOTE LEGEND]**

THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.07 OR SECTION 9.04 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.2(b) OF THE APPENDIX TO THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE ISSUER.

**[Restricted Note Legend]**

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") THAT IS THE DATE ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED UNDER RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREOF, ONLY (A) TO THE ISSUER OR ANY SUBSIDIARY OF THE ISSUER, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATIONS UNDER THE SECURITIES ACT, OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUER'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

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[Regulation S Legend]

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") THAT IS THE DATE ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED UNDER RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREOF, ONLY (A) TO THE ISSUER OR ANY SUBSIDIARY OF THE ISSUER, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUER'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

Each Regulation S Global Note shall bear the following additional legend (as applicable):

THE RIGHTS ATTACHING TO THIS REGULATION S GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR CERTIFICATED NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN).

Each Definitive Note shall bear the following additional legend:

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRUSTEE SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH REGISTRAR AND TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

**[FORM OF NOTE]**

No. \_\_\_\_\_

CUSIP No. \_\_\_\_\_  
ISIN No. \_\_\_\_\_  
\$ \_\_\_\_\_

**ACCO BRANDS CORPORATION**  
**4.25% Senior Notes due 2029**

ACCO BRANDS CORPORATION, a Delaware corporation, for value received, promises to pay or cause to be paid to [ ], or its registered assigns, the principal sum of [ ] Dollars [ or such other amount as is listed on the Schedule of Increases or Decreases in Global Note attached hereto][1] on March 15, 2029.

Interest Payment Dates: March 15 and September 15

Record Dates: March 1 and September 1

Additional provisions of this Note are set forth on the other side of this Note.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed.

ACCO BRANDS CORPORATION

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

Dated: \_\_\_\_\_

1 Use the Schedule of Increases and Decreases language if Note is in Global Form.

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

Wells Fargo Bank, National Association, as Trustee, certifies that this is one of the Notes referred to in the Indenture

By: \_\_\_\_\_  
Authorized Signatory

Dated: \_\_\_\_\_

  \*/ If the Note is to be issued in global form, add the Global Notes Legend and the applicable attachment from Exhibit A captioned "TO BE ATTACHED TO GLOBAL NOTES – SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTES".

[FORM OF REVERSE SIDE OF NOTE]

ACCO BRANDS CORPORATION

4.25% SENIOR NOTES DUE 2029

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest

The Issuer promises to pay or cause to be paid interest on the principal amount of this Note at 4.25% *per annum* from \_\_\_\_\_, \_\_\_\_ until maturity. The Issuer shall pay interest semiannually in arrears on March 15 and September 15 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an “**Interest Payment Date**”), commencing September 15, 2021. Interest on the Notes shall accrue from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from the date of issuance; *provided* that, if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided further*, that the first Interest Payment Date shall be \_\_\_\_\_, \_\_\_\_\_. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at a rate equal to 1% *per annum* in excess of the then applicable interest rate on the Notes to the extent lawful; the Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (if any) (without regard to any applicable grace period) from time to time at the same rate to the extent lawful.

2. Method of Payment

The Issuer shall pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders at the close of business on the March 1 and September 1 immediately preceding the Interest Payment Date even if such Notes are canceled after the record date and on or before the Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Issuer shall pay principal, premium, if any, and interest on the Notes in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. The Issuer will make payments in respect of the Notes represented by the Global Notes, including principal, premium, if any, and interest, by wire transfer of immediately available funds to the accounts specified by the Global Note Holder. The Issuer will make all payments of principal, interest and premium, if any, with respect to Definitive Notes by wire transfer of immediately available funds to the accounts specified by the Holders of the Definitive Notes or, if no such account is specified, by mailing a check to each such Holder’s registered address. All other payments on Notes shall be made at the office or agency of the Paying Agent and Registrar unless the Issuer elects to make interest payments by check mailed to the Holders at their addresses set forth in the register of Holders; *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, premium on, if any, and interest, if any, on, all Global Notes and all other Notes the Holders of which will have provided wire transfer instructions to the Company or the Paying Agent. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.



3. Paying Agent and Registrar

Initially, Wells Fargo Bank, National Association (the “*Trustee*”) will act as Paying Agent and Registrar. The Issuer may appoint and change any Paying Agent or Registrar without prior notice to any Holder. The Issuer or any of its Subsidiaries may act as Paying Agent or Registrar.

4. Indenture

The Issuer issued the Notes under an Indenture dated as of March 15, 2021 (the “*Indenture*”), among the Issuer, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms and provisions of the Indenture, and the Holders (as defined in the Indenture) are referred to the Indenture for a statement of such terms and provisions. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Notes are unsecured. The Indenture does not limit the aggregate principal amount of Additional Notes that may be issued thereunder.

5. Optional Redemption

- (a) At any time prior to March 15, 2024, the Issuer may, at its option, redeem up to 40% of the aggregate principal amount of Notes, upon not less than 15 nor more than 60 days’ prior notice, at a redemption price equal to 104.25% of the principal amount of the Notes redeemed, plus accrued and unpaid interest, if any, to but not including, the date of redemption, with the net cash proceeds of one or more Equity Offerings by the Issuer or a contribution to the Issuer’s common equity capital made with the net cash proceeds of a concurrent Equity Offering by any direct or indirect parent company of the Issuer; *provided that*
  - (i) at least 50% of the aggregate principal amount of Notes originally issued under the indenture (excluding Notes held by the Issuer and the Issuer’s Subsidiaries) remains outstanding immediately after the occurrence of such redemption and
  - (ii) notice of the redemption is mailed or sent to holders of the Notes within 120 days of the date of the closing of such Equity Offering.
- (b) At any time prior to March 15, 2021, the Issuer may on any one or more occasions redeem all or a part of the Notes, upon not less than 15 nor more than 60 days’ notice, at a redemption price equal to 100% of the principal amount of the Notes redeemed, *plus* the Applicable Premium as of, and accrued and unpaid interest, if any, to, the date of redemption, subject to the rights of Holders of Notes on the relevant record date to receive interest on the relevant interest payment date.

- (c) Except as set forth in subparagraphs (a) and (b) of this paragraph 5, the Issuer shall not have the option to redeem the Notes pursuant to this Section prior to March 15, 2024.
- (d) On or after March 15, 2024, the Issuer may redeem the Notes, in whole at any time or in part from time to time, upon not less than 15 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest thereon, if any, to, but not including the applicable redemption date, if redeemed during the 12-month period beginning on March 15 of the years indicated below, subject to the rights of Holders of Notes on the relevant record date to receive interest on the relevant interest payment date:

<b>Year</b>	<b>Percentage</b>
2024	102.125%
2025	101.063%
2026 and thereafter	100.000%

Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

6. Mandatory Redemption

The Issuer shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

7. Repurchase of Notes at the Option of the Holders upon Change of Control and Asset Sales

Upon the occurrence of a Change of Control, each Holder shall have the right, subject to certain conditions specified in the Indenture, to cause the Issuer to repurchase all or any part (equal to \$2,000 or an integral multiple of \$1,000) of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount thereof, plus accrued and unpaid interest, if any, to the date of purchase (subject to the right of the Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date), as provided in, and subject to the terms of, the Indenture.

In accordance with Section 4.06 of the Indenture, the Issuer will be required to offer to purchase Notes upon the occurrence of certain events related to sales of Issuer assets. If such an event occurs, the offer price for the Notes in any Asset Sale Offer will be equal to 100% of the principal amount of the Notes repurchased, plus accrued and unpaid interest, if any, on the Notes to the date of purchase, as provided in, and subject to the terms of, the Indenture.

8. Notice of Redemption

Notice of redemption will be mailed by first-class mail at least 15 days but not more than 60 days before the redemption date to each Holder of Notes to be redeemed at his, her or its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Indenture. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000. On or after the redemption date interest ceases to accrue on Notes or portions thereof called for redemption.

9. Denominations; Transfer; Exchange

The Notes are in registered form in denominations of \$2,000 and any integral multiple of \$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Issuer may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Registrar need not register the transfer of or exchange any Notes selected for redemption (except, in the case of a Note to be redeemed in part, the portion of the Note not to be redeemed) or to transfer or exchange any Notes (i) for a period of 15 days prior to a selection of Notes to be redeemed or (ii) tendered and not withdrawn in connection with a Change of Control Offer or an Asset Sale Offer or any other tender offer for the Notes. The transferor of any Note shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Section 6045 of the Code. Transfer may be restricted as provided in the Indenture.

10. Persons Deemed Owners

The registered Holder of this Note shall be treated as its owner for all purposes.

11. Unclaimed Money

Subject to any applicable escheat or other abandoned property law, the Trustee or Paying Agent shall pay to the Issuer upon written request any money held by them for the payment of principal of, premium (if any), interest (if any) on, any Note that remains unclaimed for two years after such amounts have become due and payable, and, thereafter, Holders entitled to the money must look to the Issuer for payment as a general creditor, and the Trustee and each Paying Agent shall have no further liability with respect to such monies.

12. Discharge and Defeasance

Subject to certain conditions, the Issuer at any time may terminate some of or all its obligations under the Notes and the Indenture if, among other things, the Issuer deposits with the Trustee, in trust, for the benefit of the Holders of the Notes, cash in U.S. dollars, Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, or premium (if any), interest (if any) on, the outstanding Notes.

13. Amendment, Supplement and Waiver

- (a) Subject to certain exceptions, the Indenture, the Notes or the Note Guarantees may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), and any provision of the Indenture, the Notes or the Note Guarantees may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes).
- (b) Without the consent of any Holder of a Note, the Indenture, the Notes or the Note Guarantees may be amended or supplemented to cure any ambiguity, omission, mistake, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, *provided*, that such Notes are issued in registered form for purposes of Section 163(f) of the Code, to provide for the assumption of the Issuer's or any Guarantor's obligations to Holders of Notes in the case of a merger or consolidation or sale of all or substantially all of the Issuer's or such Guarantor's assets, to make any change that would provide any additional rights or benefits to the Holders of Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with Section 4.11 of the Indenture, to conform the text of the Indenture, the Notes or the Note Guarantees to any provision of the section of the Issuer's Offering Memorandum dated March 1, 2021, entitled "Description of Notes" to the extent that such provision in the "Description of Notes" was intended to be a verbatim recitation of a provision of the Indenture, the Notes or the Note Guarantees, to evidence and provide for the acceptance of appointment by a successor Trustee (*provided* that the successor Trustee is otherwise qualified and eligible to act as such under the Indenture), to provide for the issuance of Additional Notes in accordance with the Indenture, or to grant any Lien for the benefit of the Holders of the Notes.

14. Defaults and Remedies

In the case of an Event of Default arising from events of bankruptcy or insolvency specified in Section 6.01(f) or Section 6.01(g) of the Indenture with respect to the Issuer, all outstanding Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee notifies the Issuer or the Holders of at least 30% in principal amount of the then-outstanding Notes may declare all the Notes to be due and payable immediately by notice in writing to the Issuer specifying the Event of Default; *provided, however*, that a Default under Section 6.01(d) of the Indenture shall not constitute an Event of Default until the Trustee notifies the Issuer or the Holders of at least 30% in principal amount of the outstanding Notes notify the Issuer and the Trustee of the Default and the Issuer does not cure such Default within the time specified in Section 6.01(d) after receipt of such notice. Holders of the Notes may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then-outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest or premium, if any) if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes. Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under the Indenture, except a continuing Default or Event of Default in the payment of interest, if any, on, premium, if any, on, or the principal of, the Notes; *provided, however*, that the Holders of a majority in principal amount of the then outstanding Notes may rescind an acceleration and its consequences, except a Default or Event of Default in the payment of the principal of, or premium (if any), interest (if any) on, a Note.

15. Trustee Dealings with the Issuer

The Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and may become a creditor of, or otherwise deal with, the Issuer or its Affiliates with the same rights it would have if it were not Trustee.

16. No Recourse Against Others

No director, officer, employee, manager, incorporator or holder of any Equity Interests in the Issuer or of any Guarantor or any direct or indirect parent corporation, as such, shall have any liability for any obligations of the Issuer or the Guarantors under the Notes, the Indenture or the Note Guarantees for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release under are part of the consideration for issuance of the Notes and the Note Guarantees.

17. Authentication

This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

18. Abbreviations

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

19. GOVERNING LAW

THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES WHICH WOULD HAVE THE EFFECT OF APPLYING THE LAWS OF ANY OTHER JURISDICTION.

20. CUSIP Numbers; ISINs

The Issuer has caused CUSIP numbers and ISINs to be printed on the Notes and has directed the Trustee to use CUSIP numbers and ISINs in notices of redemption as a convenience to the Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

21. Guarantee

The Issuer's obligations under the Notes are fully and unconditionally guaranteed, jointly and severally, by the Guarantors.

22. Copies of Documents

The Issuer will furnish to any Holder of Notes upon written request and without charge to the Holder a copy of the Indenture which has in it the text of this Note.

**Assignment Form**

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

\_\_\_\_\_

(INSERT ASSIGNEE'S LEGAL NAME)

\_\_\_\_\_

(Insert assignee's soc. sec. or tax I.D. no.)

\_\_\_\_\_

(Insert assignee's name address and zip code)

and irrevocably appoint \_\_\_\_\_  
as agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him or her.

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee\*: \_\_\_\_\_  
\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

*[To be inserted for Rule 144A Global Note]*

SCHEDULE OF INCREASES OR DECREASES IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

<u>Date of Exchange</u>	<u>Amount of Decrease in Principal Amount at Maturity of this Global Note</u>	<u>Amount of Increase in Principal Amount at Maturity of this Global Note</u>	<u>Principal Amount of this Global Note Following such decrease (or increase)</u>	<u>Signature of Authorized Officer of Trustee or Notes_ Custodian</u>
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*[To be inserted for Regulation S Global Note]*

SCHEDULE OF EXCHANGES OF INTERESTS IN THE REGULATION S GLOBAL NOTE

The following exchanges of a part of this Regulation S Global Note for an interest in another Global Note or of other Restricted Global Notes for an interest in this Regulation S Global Note, have been made:

<u>Date of Exchange</u>	<u>Amount of Decrease in Principal Amount at Maturity of this Global Note</u>	<u>Amount of Increase in Principal Amount at Maturity of this Global Note</u>	<u>Principal Amount of this Global Note Following such decrease (or increase)</u>	<u>Signature of Authorized Officer of Trustee or Notes_ Custodian</u>
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OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 4.06 (Asset Sale) or Section 4.08 (Change of Control) of the Indenture, check the box:

Asset Sale

Change of Control

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 4.06 (Asset Sale) or Section 4.08 (Change of Control) of the Indenture, state the amount (\$2,000 or an integral multiple of \$1,000 in excess of \$2,000):

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

**SUPPLEMENTAL INDENTURE**, dated as of \_\_\_\_\_, among \_\_\_\_\_ (the “**Guaranteeing Subsidiary**”), a subsidiary of ACCO Brands Corporation., a Delaware corporation (or its permitted successor) (the “**Issuer**”), the Issuer, and Wells Fargo Bank, National Association (or its permitted successor), a nationally chartered banking association, as trustee under the Indenture referred to below (the “**Trustee**”).

**WITNESSETH**

**WHEREAS**, the Issuer and the other Guarantors party thereto have heretofore executed and delivered to the Trustee an indenture (as supplemented and amended, the “**Indenture**”), dated as of March 15, 2021 providing for the issuance of the Issuer’s 4.25% senior notes due 2029 (the “**Notes**”);

**WHEREAS**, Section 4.11 of the Indenture provides that under certain circumstances the Issuer is required to cause the Guaranteeing Subsidiary to execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall, subject to ARTICLE Eleven of the Indenture, jointly and severally with all of the other Guarantors, fully and unconditionally guarantee all the Issuer’s obligations under the Notes pursuant to a Note Guarantee on the terms and conditions set forth herein (the “**Note Guarantee**”); and

**WHEREAS**, pursuant to Section 9.01 of the Indenture, the Trustee, the Issuer and the existing Guarantors are authorized to execute and deliver this Supplemental Indenture;

**NOW THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary, the Issuer, and the Trustee mutually covenant and agree as follows for the benefit of each other and the equal and ratable benefit of the Holders of the Notes:

1. Defined Terms. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words “herein,” “hereof” and “hereby” and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.
2. Agreement to Guarantee.
  - (a) Subject to ARTICLE Eleven of the Indenture, the Guaranteeing Subsidiary, jointly and severally with all other Guarantors, fully and unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of the Indenture, the Notes or the obligations of the Issuer hereunder or thereunder, that:
    - (i) the principal of, premium (if any), interest (if any) on, the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of, premium (if any), interest (if any) on, the Notes, if lawful (subject in all cases to any applicable grace period provided herein), and all other obligations of the Issuer to the Holders or the Trustee hereunder or thereunder will be promptly paid in full, all in accordance with the terms hereof and thereof, and

- (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, the same will be promptly paid in full when due in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. The Guaranteeing Subsidiary agrees that this is a guarantee of payment and not a guarantee of collection.
- (b) The Guaranteeing Subsidiary hereby agrees that, to the maximum extent permitted under applicable law, its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Issuer, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor.
- (c) The Guaranteeing Subsidiary, subject to Section 6.06 of the Indenture, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever and covenants that this Note Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes and the Indenture.
- (d) If any Holder or the Trustee is required by any court or otherwise to return to the Issuer, the Guarantors, or any custodian, trustee, liquidator or other similar official acting in relation to the Issuer or any Guarantor, any amount paid by any of them to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.
- (e) The Guaranteeing Subsidiary agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

- (f) The Guaranteeing Subsidiary agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (i) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article Six of the Indenture for the purposes of the Note Guarantee of such Guaranteeing Subsidiary, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such obligations as provided in Article Six of the Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of the Note Guarantee.
- (g) The Guaranteeing Subsidiary shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantee.
- (h) The Guaranteeing Subsidiary confirms, pursuant to Section 11.02 of the Indenture, that it is the intention of such Guaranteeing Subsidiary that the Note Guarantee not constitute (i) a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to the Note Guarantee or (ii) an unlawful distribution under any applicable state law prohibiting shareholder distributions by an insolvent subsidiary to the extent applicable to the Note Guarantee. To effectuate the foregoing intention, the Guaranteeing Subsidiary and the Trustee hereby irrevocably agree that the obligations of the Guaranteeing Subsidiary will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guaranteeing Subsidiary that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under ARTICLE Eleven of the Indenture, result in the obligations of the Guaranteeing Subsidiary under the Note Guarantee not constituting a fraudulent transfer or conveyance or such an unlawful shareholder distribution.

3. Notices. All notices or other communications to the Guaranteeing Subsidiary shall be given as provided in Section 12.02 of the Indenture.

4. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

5. **GOVERNING LAW. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES WHICH WOULD HAVE THE EFFECT OF APPLYING THE LAWS OF ANY OTHER JURISDICTION.**

6. Trustee Makes No Representation. The Trustee makes no representation as to and shall not be responsible for the validity or sufficiency of this Supplemental Indenture or the Note Guarantees. All of the provisions contained in the Indenture in respect of the rights, privileges, immunities, powers, and duties of the Trustee shall be applicable in respect of this Supplemental Indenture as fully and with like force and effect as though fully set forth in full herein.
7. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes. This Supplemental Indenture shall be valid, binding, and enforceable against a party when executed and delivered by an authorized individual on behalf of the party by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including any relevant provisions of the Uniform Commercial Code (collectively, "Signature Law"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each party hereto shall be entitled to conclusively rely upon, and shall have no liability with respect to, any faxed, scanned, or photocopied manual signature, or other electronic signature, of any other party and shall have no duty to investigate, confirm or otherwise verify the validity or authenticity thereof. This Supplemental Indenture may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument. For the avoidance of doubt, original manual signatures shall be used for execution or indorsement of writings when required under the Uniform Commercial Code or other Signature Law due to the character or intended character of the writings.
8. Effect of Headings. The Section headings herein are for convenience only and shall not effect the construction thereof.
9. Execution and Delivery. The Guaranteeing Subsidiary agrees that the Note Guarantee shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of the Note Guarantee.
10. No Recourse Against Others. No director, officer, employee, incorporator or stockholder of the Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Guaranteeing Subsidiary under the Notes, the Indenture, this Supplemental Indenture, the Note Guarantees, or any document related to any of the foregoing or for any claim based on, in respect of, or by reason of, such obligations or their creation. The waiver and release under this Section 10 are part of the consideration for the Note Guarantees.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

[NEW GUARANTOR]

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

ACCO BRANDS CORPORATION

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

WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE

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

**FORM OF NOTATION OF GUARANTEE**

For value received, each Guarantor (which term includes any successor Person under the Indenture) has, jointly and severally, unconditionally guaranteed, to the extent set forth in and subject to the provisions in the Indenture, dated as of March 15, 2021 (the “*Indenture*”), among ACCO Brands Corporation, a Delaware corporation (the “*Issuer*”), the Guarantors and Wells Fargo Bank, National Association, a nationally chartered banking association, as trustee (the “*Trustee*”), (a) the full and punctual payment when due, whether at Stated Maturity, by acceleration, by redemption or otherwise, of all obligations of the Issuer under the Indenture (including obligations to the Trustee) and the Notes, whether for payment of principal of, or premium (if any), interest (if any) on, the Notes and all other monetary obligations of the Issuer under the Indenture (including interest on the overdue principal of, premium (if any), interest (if any) on, the Notes, if lawful (subject in all cases to any applicable grace period provided in the Indenture)) and the Notes and (b) the full and punctual performance within applicable grace periods of all other obligations of the Issuer whether for fees, expenses, indemnification or otherwise under this Indenture and the Notes (all the foregoing being hereinafter collectively called the “*Guaranteed Obligations*”). Each Guarantor further agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from each such Guarantor, and that each such Guarantor shall remain bound under ARTICLE Eleven of the Indenture notwithstanding any extension or renewal of any Guaranteed Obligation. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Note Guarantee and the Indenture are expressly set forth in ARTICLE Eleven of the Indenture and reference is hereby made to the Indenture for the precise terms of the Note Guarantee. Each Holder of a Note, by accepting the same, (a) agrees to and shall be bound by such provisions and (b) appoints the Trustee attorney-in-fact of such Holder for such purpose.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS HEREOF**, each Guarantor has caused this Notation of Guarantee to be signed manually or by facsimile by its duly authorized officer.

**[NAME OF GUARANTOR]**



## FORM OF CERTIFICATE OF TRANSFER

ACCO Brands Corporation  
 Kemper Lakes Business Center, Building 4  
 Four Corporate Drive  
 Long Grove, Illinois 60047

Wells Fargo Corporate Trust-DAPS Reorg  
 600 Fourth Street South, 7th Floor  
 MAC N9300-070  
 Minneapolis, MN 55479  
 Phone: 1-800-344-5128  
 Fax: 1-866-969-1290  
 Email: dapsreorg@wellsfargo.com

Re: 4.25% Senior Notes due 2029

Reference is hereby made to the Indenture, dated as of March 15, 2021 (the “*Indenture*”), among ACCO Brands Corporation, a Delaware corporation (the “*Issuer*”), the Guarantors and Wells Fargo Bank, National Association, a nationally chartered banking association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_ (the “*Transferor*”) owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$ \_\_\_\_\_ in such Note[s] or interests (the “*Transfer*”), to \_\_\_\_\_ (the “*Transferee*”), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Restricted Definitive Note pursuant to Rule 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the “*Securities Act*”), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a “qualified institutional buyer” within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Restricted Notes Legend printed on the 144A Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

2. Check if Transferee will take delivery of a beneficial interest in a Regulation S Global Note or a Restricted Definitive Note pursuant to Regulation S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Regulation S Legend printed on the Regulation S Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

3. Check if Transferee will take delivery of a Restricted Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one)

(a)  such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act; or

(b)  such to the Issuer or a Subsidiary thereof.

4. Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.

(a) Check if Transfer is pursuant to Rule 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Restricted Notes Legend or the Regulation S Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Restricted Notes Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) Check if Transfer is Pursuant to Regulation S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and, in the case of a transfer from a Restricted Global Note or a Restricted Definitive Note, the Transferor hereby further certifies that (a) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (b) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (c) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (d) the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person, and (ii) the restrictions on transfer contained in the Indenture, the Restricted Notes Legend or the Regulation S Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Regulation S Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) Check if Transfer is Pursuant to Other Exemption. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Restricted Notes or Regulation S Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Restricted Notes Legend or Regulation S Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

5. Check if Transferee will take delivery of a Restricted Global Note as registered Holder thereof. Such Transfer is being effected pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to a Restricted Definitive Notes and the requirements of the exemption claimed. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred Restricted Global Note will be subject to the restrictions on transfer enumerated in the Restricted Notes Legend or Regulation S Legend printed on the Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Issuer.

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Insert Name of Transferor]

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

Name:

Title:

\_\_\_\_\_  
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**ANNEX A TO CERTIFICATE OF TRANSFER**

1. The Transferor owns and proposes to transfer the following:

**[CHECK ONE OF (a) OR (b)]**

- (a) a beneficial interest in the:
  - (i) 144A Global Note (CUSIP: 00081T AJ7) or
  - (ii) Regulation S Global Note (CUSIP: U00445 AD5); or
- (b) a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

**[CHECK ONE]**

- (a) a beneficial interest in the:
  - (i) 144A Global Note (CUSIP: 00081T AJ7) or
  - (ii) Regulation S Global Note (CUSIP: U00445 AD5); or
  - (iii) Unrestricted Global Note (CUSIP: ); or
- (b) a Restricted Definitive Note; or
- (c) an Unrestricted Definitive Note; or
- (d) a Restricted Global Note as registered Holder hereof;

in accordance with the terms of the Indenture.

**FORM OF CERTIFICATE OF EXCHANGE**

ACCO Brands Corporation.  
Kemper Lakes Business Center, Building 4  
Four Corporate Drive  
Long Grove, Illinois 60047

Wells Fargo Corporate Trust-DAPS Reorg  
600 Fourth Street South, 7th Floor  
MAC N9300-070  
Minneapolis, MN 55479  
Phone: 1-800-344-5128  
Fax: 1-866-969-1290  
Email: dapsreorg@wellsfargo.com

Re: 4.25% Senior Notes due 2029

Reference is hereby made to the Indenture, dated as of March 15, 2021 (the “*Indenture*”), among ACCO Brands Corporation, a Delaware corporation (the “*Issuer*”), the Guarantors and Wells Fargo Bank, National Association, a nationally chartered banking association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_ (the “*Owner*”) owns and proposes to exchange the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$ \_\_\_\_\_ in such Note[s] or interests (the “*Exchange*”). In connection with the Exchange, the Owner hereby certifies that:

**[CHECK ALL THAT APPLY]**

**1. Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note**

(a)  **Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note.** In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the Securities Act of 1933, as amended (the “Securities Act”), (iii) the restrictions on transfer contained in the Indenture and the Restricted Notes Legend or the Regulation S Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b)  **Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note.** In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner’s own account without transfer,

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(ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Restricted Notes Legend or the Regulation S Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c)  **Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Restricted Notes Legend or the Regulation S Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d)  **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Restricted Notes Legend or Regulation S Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

**2. Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes**

(a)  **Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Restricted Notes Legend or Regulation S Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

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(b)  **Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note.** In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE]  144A Global Note,  Regulation S Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States.

Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Restricted Notes Legend or the Regulation S Legend, as applicable, printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Issuer.

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Insert Name of Owner]

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

\_\_\_\_\_