

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

**FORM S-1  
REGISTRATION STATEMENT**  
*UNDER THE SECURITIES ACT OF 1933*

**ALLISON TRANSMISSION HOLDINGS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**3714**  
(Primary Standard Industrial  
Classification Code Number)

**26-0414014**  
(I.R.S. Employer  
Identification No.)

**4700 West 10th Street,  
Indianapolis, IN 46222  
(317) 242-5000**

(Address, including zip code, and telephone number, including area code, of the registrant's principal executive offices)

**Eric C. Scroggins**  
**Vice President — General Counsel and Secretary**  
**Allison Transmission Holdings, Inc.**  
**4700 West 10th Street,**  
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**(317) 242-5000**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

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**Approximate date of commencement of proposed sale to the public:** As soon as practicable after the effective date of this registration statement.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer                       Accelerated filer                       Non-accelerated filer                       Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

Title of Securities to be registered	Proposed maximum aggregate offering price(a)(b)	Amount of registration fee
Common stock, \$0.01 par value	\$750,000,000	\$87,075

(a) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(o) promulgated under the Securities Act of 1933.

(b) Including additional shares of common stock that may be purchased by the underwriters.

**The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to Completion  
Preliminary Prospectus dated March 18, 2011

**PROSPECTUS**

Shares



Allison Transmission Holdings, Inc.

Common Stock

This is Allison Transmission Holdings, Inc.'s initial public offering. We are selling \_\_\_\_\_ shares of our common stock.

We expect the public offering price to be between \$ \_\_\_\_\_ and \$ \_\_\_\_\_ per share. Currently, no public market exists for the shares. We will apply for listing of our common stock on the \_\_\_\_\_ under the \_\_\_\_\_ symbol "\_\_\_\_\_."

Investing in the common stock involves risks that are described in the "[Risk Factors](#)" section beginning on page 16 of this prospectus.

	Per Share	Total
Public offering price	\$ _____	\$ _____
Underwriting discount	\$ _____	\$ _____
Proceeds, before expenses, to us	\$ _____	\$ _____

The underwriters may also purchase up to an additional \_\_\_\_\_ shares from us, at the public offering price, less the underwriting discount, within 30 days from the date of this prospectus to cover overallocments, if any.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The shares will be ready for delivery on or about \_\_\_\_\_, 2011.

**BofA Merrill Lynch**  
**Credit Suisse**

**Citi**  
**Morgan Stanley**

**J.P. Morgan**  
**Goldman, Sachs & Co.**

The date of this prospectus is \_\_\_\_\_, 2011.

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We are responsible for the information contained in this prospectus and in any related free-writing prospectus we prepare or authorize. We have not authorized anyone to give you any other information, and we take no responsibility for any other information that others may give you. We are offering to sell, and seeking offers to buy, shares of our common stock only in jurisdictions where offers and sales are permitted. The information in this document may only be accurate on the date of this document, regardless of its time of delivery or of any sales of shares of our common stock. Our business, financial condition, results of operations or cash flows may have changed since such date.

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## **MARKET AND INDUSTRY DATA**

We obtained the industry, market and competitive position data used throughout this prospectus from our own internal estimates and research as well as from industry publications and research, surveys and studies conducted by third parties, including Americas Commercial Transportation Research, which we refer to as ACT Research, including their N.A. Commercial Vehicle OUTLOOK report, dated March 10, 2011, Frost & Sullivan's May 2010 titled: Strategic Analysis of North American and European Hybrid Truck, Bus and Van Market, which we refer to as Frost & Sullivan, JDPower World Truck Query 4Q 2010, which we refer to as J. D. Power and Associates, and Ward's Automotive Group, dated March 10, 2011. Industry publications, studies and surveys generally state that they have been obtained from sources believed to be reliable, although they do not guarantee the accuracy or completeness of such information. While we believe each of these studies and publications is reliable, we have not independently verified market and industry data from third-party sources. While we believe our internal company research is reliable and the market definitions are appropriate, neither such research nor these definitions have been verified by any independent source. Estimates of historical growth rates in the markets where we operate are not necessarily indicative of future growth rates in such markets.

## **CERTAIN TRADEMARKS**

This prospectus includes trademarks, such as Allison Transmission and ReTran, which are protected under applicable intellectual property laws and are our property and/or the property of our subsidiaries. This prospectus also contains trademarks, service marks, copyrights and trade names of other companies, which are the property of their respective owners. We do not intend our use or display of other companies' trademarks, service marks, copyrights or trade names to imply a relationship with, or endorsement or sponsorship of us by, any other companies. Solely for convenience, our trademarks and tradenames referred to in this prospectus may appear without the ® or ™ symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the right of the applicable licensor to these trademarks and tradenames.

## PROSPECTUS SUMMARY

*This summary highlights information contained elsewhere in this prospectus. Because this is only a summary, it does not contain all of the information that may be important to you. You should read this entire prospectus and should consider, among other things, the matters set forth under “Risk Factors,” “Selected Consolidated Financial Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and our financial statements and related notes thereto appearing elsewhere in this prospectus before making your investment decision. Unless otherwise noted in this prospectus, the term “Allison Holdings” means Allison Transmission Holdings, Inc. “Allison,” “the Company,” “Successor,” “we,” “us,” “our” and “our company” means Allison Holdings and its subsidiaries, including Allison Transmission, Inc., which we refer to as “ATI,” our primary operating company and a wholly-owned subsidiary of Allison Holdings.*

### Company Overview

We are the world’s largest manufacturer of fully-automatic transmissions for medium- and heavy-duty commercial vehicles, medium- and heavy-tactical U.S. military vehicles and hybrid-propulsion systems for transit buses. Allison transmissions are used in a variety of applications, including on-highway trucks (distribution, refuse, construction, fire and emergency), buses (primarily school and transit), motorhomes, off-highway vehicles and equipment (primarily energy and mining) and military vehicles (wheeled and tracked). The Allison brand is one of the most recognized in our industry as a result of the performance, reliability and fuel efficiency of our transmissions. We estimate that globally, in 2010, we sold approximately 60% of all fully-automatic transmissions for medium- and heavy-duty on-highway commercial vehicle applications, and we are well-positioned to capitalize on numerous attractive growth opportunities. For the year ended December 31, 2010, we generated net sales of \$1,926.3 million, net income of \$29.6 million, Adjusted net income of \$273.7 million and Adjusted EBITDA of \$617.0 million, representing a 32.0% Adjusted EBITDA margin.

We introduced the world’s first fully-automatic transmission for commercial vehicles over 60 years ago. Since that time, we have driven the trend towards increasing adoption of fully-automatic transmissions, or automaticity, by targeting a diverse range of commercial vehicle vocations where our products deliver a compelling value proposition. As compared to manual transmissions and automated manual transmissions, or AMTs, we believe the superior performance attributes of our fully-automatic transmissions include lower maintenance costs, reduced vehicle downtime, ease of operation, increased safety and improved driver and passenger comfort. We believe our transmissions offer increased fuel efficiency and faster acceleration, resulting in lower operating costs and increased productivity when they are used in vehicles with duty cycles that require a high degree of “start and stop” activity. As a result of these attributes, our fully-automatic transmissions are the standard or exclusive transmission offered in the powertrain configuration of numerous vehicles, including school buses, fire and emergency vehicles, mining trucks and medium- and heavy-tactical U.S. military vehicles. In applications where our transmission is offered as an alternative to a manual transmission or an AMT, such as distribution and refuse trucks, end users often specify an “Allison” transmission when ordering a commercial vehicle, creating pull-through demand for our products.

The Allison brand is one of the most recognized and respected names in the commercial vehicle industry and is associated with high quality, reliability, durability, vocational value, technological leadership and superior customer service. We believe our brand helps us to maintain our leading market position and to price our products commensurate with the value provided to the end user. Allison transmissions are optimized for the unique performance requirements of end users, which typically vary by vocation. Our products are highly engineered, requiring advanced manufacturing processes, and employ complex software algorithms for our transmission controls to maximize end user performance. We have developed over 100 different models that are used in more than 2,500 different vehicle configurations and are compatible with more than 500 combinations of engine brands, models and ratings (including diesel, gasoline, compressed natural gas and other alternative fuels). In 2010, over 10,000 unique Allison developed calibrations were used with our transmission control modules. We believe that our scale, experience and culture of innovation reinforce our leading market position and provide us with an enduring competitive advantage.

We believe we are well-positioned to capitalize on numerous attractive growth opportunities globally, including an expected recovery in our developed markets, increased adoption of fully-automatic transmissions in emerging markets and new product introductions. Our core North American on-highway market, which we define as Class 4-7 trucks, Class 8 straight trucks, buses (school, conventional transit, shuttle and coach) and motorhomes, is poised for continued recovery. According to ACT Research, on-highway commercial vehicle production in North America (excluding transit and coach bus, and motorhome) reached a 20-year low in 2009 and is anticipated to experience a compounded annual growth rate, or CAGR, of 20.4% from 2010 to 2013. We expect to benefit from a similar recovery in Western Europe. In addition, we believe the increasing trend towards automaticity outside North America represents a major growth opportunity for us, as we estimate less than 5% of the medium- and heavy-duty commercial vehicles sold outside North America in 2010 were equipped with fully-automatic transmissions, as compared to 79% in our core North American market. This anticipated growth will be facilitated by our established international operations and customer relationships. For example, we are the leading provider of fully-automatic transmissions for medium- and heavy-duty commercial vehicles in China with a substantial installed base of over 30,000 Allison transmissions. In addition, in response to the evolving global focus on fuel consumption, we are developing new products to improve fuel efficiency without compromising performance. Over the last three years, we have accelerated and significantly increased our investment in research and development resulting in more new products under development today than at any time in our history. Examples of our key innovations include the development of a fully-automatic hybrid-propulsion system for the medium- and heavy-duty commercial truck markets and a fully-automatic transmission for a portion of the Class 8 tractor truck market, where we currently have a limited presence.

With strong margins, low maintenance capital expenditures and minimal U.S. federal income tax payments, we believe Allison has a strong and sustainable financial profile. We continue to execute on a number of manufacturing and purchasing initiatives to increase efficiency, reduce operating costs and enhance our profitability and cash flow generation capabilities. For example, in 2008, we negotiated a mutually beneficial labor agreement with the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, or UAW, which introduced a multi-tier wage and benefit structure and an annual profit-sharing incentive compensation plan for the hourly workforce tied to identical performance metrics as those used for the management team and salaried employees. As a result of our focus on improving our operating effectiveness and efficiency, we have been able to improve our Adjusted EBITDA margin by 560 basis points since 2008, despite experiencing one of the most severe economic downturns our industry has ever faced. We have also established a new manufacturing facility in Chennai, India in 2010 and expect to complete another facility in Szentgotthard, Hungary in 2011, both of which will provide access to low-cost manufacturing and a geographic presence to support our growth efforts in emerging markets. As we execute our growth strategy, we believe our strong operating leverage will position us for significant earnings growth and cash flow generation.

Allison Transmission, Inc., which is headquartered in Speedway, Indiana, was acquired by affiliates of The Carlyle Group, or Carlyle, and affiliates of Onex Corporation, or Onex, which we collectively refer to as our Sponsors, in August 2007 from General Motors Corporation, or General Motors, which we refer to as the Acquisition Transaction. The Acquisition Transaction was structured as an asset purchase for U.S. federal income tax purposes, which resulted in a step-up in the U.S. federal income tax basis of our assets that allows us to take substantial amortization deductions for U.S. federal income tax purposes. As of December 31, 2010, we had \$3.6 billion of unamortized intangible assets which may be amortized over a period of approximately 11.6 years. These assets are expected to generate U.S. federal income tax deductions of approximately \$313 million annually through 2021 and approximately \$183 million in 2022. If we generate taxable income in the future, the amortization of these assets, together with existing U.S. net operating losses of \$383.1 million as of December 31, 2010, will be used to reduce our U.S. federal cash income tax payments.

### Our Industry & Served Markets

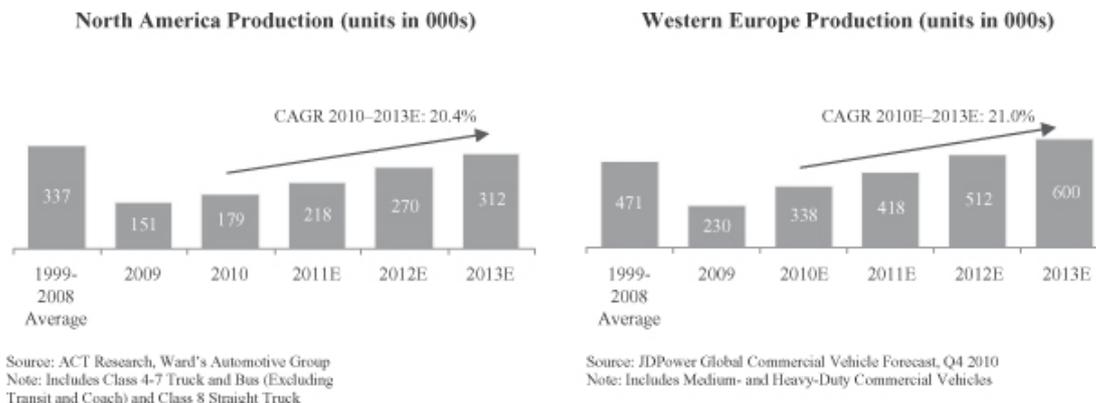
Commercial vehicles typically employ one of three transmission types: manual, AMT or fully-automatic. Manual transmissions are the most prevalent transmission type used in Class 8 tractors in North America and in medium- and heavy-duty commercial vehicles, generally, outside North America. Manual transmissions utilize a disconnect clutch causing power to be interrupted during each gear shift resulting in energy loss related inefficiencies and less work being accomplished for a given amount of fuel consumed. In long-distance trucking, this power interruption is not a significant factor, as the manual transmission provides its highest degree of fuel economy during steady-state cruising. However, when the duty cycle requires a high degree of “start and stop” activity, common in many vocations as well as in urban environments, manual transmissions result in reduced performance, lower fuel efficiency, lower average speed for a given amount of fuel consumed and inferior ride quality. Moreover, the clutches must be replaced regularly, resulting in increased maintenance expense and vehicle downtime. Manual transmissions also require a skilled driver to operate the disconnect clutch when launching the vehicle and shifting gears. AMTs are manual transmissions that feature automated operation of the disconnect clutch. Fully-automatic transmissions utilize technology that smoothly shifts gears instead of a disconnect clutch, thereby delivering uninterrupted power to the wheels during gear shifts and requiring minimal driver input. These transmissions deliver superior acceleration, higher productivity, increased fuel efficiency, reduced operating costs, less driveline shock and smoother shifting relative to both manual transmissions and AMTs. Historically, end users have exhibited a willingness to pay a meaningful premium for the performance, efficiency, comfort and convenience provided by fully-automatic transmissions.

We sell our transmissions globally for use in medium- and heavy-duty on-highway commercial vehicles (with limited exposure to the Class 8 tractor market), off-highway vehicles and equipment and military vehicles. In addition to the sale of transmissions, we also sell branded replacement parts, support equipment and other products necessary to service the installed base of vehicles utilizing our transmissions. The following table provides a summary of our business by end market, for the fiscal year ended December 31, 2010.

END MARKET	NORTH AMERICA			OUTSIDE NORTH AMERICA	MILITARY	SERVICE PARTS, SUPPORT EQUIPMENT & OTHER
	ON-HIGHWAY	HYBRID TRANSIT BUS	OFF-HIGHWAY			
<b>2010 NET SALES (IN MILLIONS)</b>	<b>\$580</b>	<b>\$156</b>	<b>\$120</b>	<b>\$288</b>	<b>\$449</b>	<b>\$333</b>
<b>% OF TOTAL</b>	31%	8%	6%	15%	23%	17%
<b>MARKET POSITION</b>	<ul style="list-style-type: none"> <li>• #1 supplier of fully-automatic transmissions</li> </ul>	<ul style="list-style-type: none"> <li>• #1 supplier of hybrid-propulsion systems</li> </ul>	<ul style="list-style-type: none"> <li>• A leading independent supplier</li> </ul>	<ul style="list-style-type: none"> <li>• #1 supplier of fully-automatic transmissions in China and India</li> <li>• Established presence in Western Europe</li> </ul>	<ul style="list-style-type: none"> <li>• #1 supplier of transmissions to the U.S. military</li> </ul>	<ul style="list-style-type: none"> <li>• Approximately 1,500 dealers and distributors worldwide</li> </ul>
<b>VOCATIONS OR END USE</b>	<ul style="list-style-type: none"> <li>• Distribution</li> <li>• Emergency</li> <li>• Refuse</li> <li>• Construction</li> <li>• Utility</li> <li>• School, transit, shuttle and coach buses</li> <li>• Motorhome</li> </ul>	<ul style="list-style-type: none"> <li>• Hybrid transit bus</li> <li>• Hybrid shuttle bus</li> </ul>	<ul style="list-style-type: none"> <li>• Energy</li> <li>• Mining</li> <li>• Construction</li> <li>• Specialty vehicle</li> </ul>	<ul style="list-style-type: none"> <li>• Transit bus</li> <li>• On-highway trucks</li> <li>• Off-highway vehicles and equipment</li> </ul>	<ul style="list-style-type: none"> <li>• Medium- and heavy-tactical wheeled platforms</li> <li>• Tracked combat platforms</li> </ul>	<ul style="list-style-type: none"> <li>• Parts</li> <li>• Support equipment</li> <li>• Remanufactured transmissions</li> <li>• Fluids</li> </ul>

We anticipate a number of industry trends will impact demand for our transmissions, including:

**Recovery of commercial vehicle demand in developed markets.** The recent global economic downturn led to a significant decline in commercial vehicle production volumes in North America and Western Europe. According to ACT Research, North American on-highway commercial vehicle production is expected to increase by a 20.4% CAGR, from 179,000 units in 2010 to 312,000 units in 2013. These volumes are still below the average annual production from 1999 to 2008 of approximately 337,000 units. According to J. D. Power and Associates, commercial vehicle production in Western Europe is expected to increase by a 21.0% CAGR from 338,000 units in 2010 to 600,000 units in 2013. We believe continued growth is supported by pent up demand resulting from deferred purchases during the economic downturn.



**Growth in commercial vehicle demand in emerging markets.** The long-term growth in demand for commercial vehicles in key emerging markets is supported by broad macroeconomic trends, including population growth, increasing urbanization and greater globalization of trade. This growth and development will require greater infrastructure spending, which we believe will enhance demand for commercial vehicles in these markets. The modernization of vehicle fleets in emerging markets is also driving demand for vehicles with increased durability and enhanced functionality, both of which are factors that influence buyers of commercial vehicles to specify our transmissions. Evidence of these trends can be seen in many Chinese cities, where refuse trucks have recently been introduced to collect consumer waste and in India where original equipment manufacturers, or OEMs, have been actively upgrading commercial vehicle specifications in response to government emphasis on equipment modernization.

**Trend toward automaticity.** Historically, the penetration of fully-automatic transmissions has been far higher in North America than in the rest of the world. We estimate the global penetration of fully-automatic transmissions was less than 10% in 2010. We expect emerging markets will continue to adopt fully-automatic transmissions in medium- and heavy-duty commercial vehicles, as end users modernize their vehicle fleets and are further educated on the value proposition of our products. Our share of all transmissions sold in our core North American on-highway markets increased from 39% in 1998 to 56% in 2010, which we believe is representative of the overall market trend toward automaticity.

**Increasing emphasis on fuel efficiency and lower emissions.** In response to changes in global vehicle emissions regulations and rising fuel prices, end users and commercial vehicle OEMs are seeking more environmentally friendly vehicles that, for example, consume less fuel and produce less greenhouse gases. We believe these trends are driving demand for our transmissions, rather than manual transmissions and AMTs. The emphasis on fuel efficiency and the corresponding reduction in emissions have also driven demand for our fully-automatic hybrid-propulsion systems used in transit buses and, we believe, will result in strong demand for the fully-automatic hybrid system we are currently developing for the medium- and heavy-duty truck market, which we expect to introduce in 2012. According to Frost & Sullivan, the production rate for medium- and heavy-duty hybrid trucks and buses in North America and Europe is expected to grow at a CAGR of approximately 72.3% and 20.1%, respectively, from 2010 to 2016.

*Rising demand for commodities and energy.* The global economic recovery, resurgence in commodity prices and innovations in extraction techniques are expected to continue to drive an increase in energy exploration and mining activities. These factors traditionally lead to strong demand for capital equipment utilizing our off-highway transmissions. For example, new methods of extracting oil and natural gas from shale formations have driven considerable demand for oil field equipment that utilize highly engineered heavy-duty fully-automatic transmissions. Fully-automatic transmissions are typically offered as standard equipment for these applications, as performance, reliability, equipment uptime and ease of operation are particularly critical in stationary applications.

*Continued demand for reliable fully-automatic transmissions in military products.* The performance characteristics of fully-automatic transmissions, including reliability, durability and ease of use, combined with the standardization of the fleet, have driven military demand for fully-automatic transmissions rather than for manual transmissions and AMTs in wheeled vehicles. Ground-based global conflicts over the past 10 years have necessitated the investment in and upgrade of wheeled and tracked vehicles, driving military spending to historically high levels. However, we expect future U.S. Department of Defense, or DOD, spending on vehicles will likely decline.

## **Our Competitive Strengths**

### ***Global Market Leader***

We are the largest global manufacturer of fully-automatic transmissions for the commercial vehicle market. We estimate that globally, in 2010, we sold approximately 60% of all fully-automatic transmissions for medium- and heavy-duty on-highway commercial vehicle applications. Within North America, we believe we sell substantially all of the fully-automatic transmission products for use in Class 6-7 trucks, Class 8 straight trucks and Type C and D school buses. We are also the number one supplier of hybrid-propulsion systems for the North American hybrid transit bus market, having sold approximately 70% of all units in 2010, and we are also the number one supplier of transmissions for medium- and heavy-tactical U.S. military vehicles. Although a substantial percentage of our net sales are generated in North America, we have a global presence, serving customers in Europe, Asia, South America and Africa. We are the leading provider of fully-automatic transmissions for use in medium- and heavy-duty commercial vehicles in China and India, markets where we believe we have the greatest long-term growth opportunities.

### ***Premier Brand and Superior Value Proposition***

End users often specify our transmissions by name (an “Allison” transmission) when purchasing a new vehicle, which we believe is a result of our compelling value proposition. We also believe our premier brand, superior value proposition and differentiated technology, combined with our market position and long history, make us the “de facto” standard for fully-automatic transmissions in the medium- and heavy-duty commercial vehicle industry. The critical function performed by Allison transmissions in commercial vehicles enables us to achieve pricing commensurate with the value our transmissions provide to end users. We continue to build Allison brand equity by consistently delivering end users strong returns on their investments in our transmissions. In light of our history of providing reliable performance over the long useful life of a vehicle, we believe customers are, and will be, reluctant to purchase from other manufacturers without a demonstrated history of reliable product performance.

### ***Technology Leadership and Customization Capabilities***

We believe our product technology is highly differentiated from that of other transmission manufacturers and provides us with an enduring competitive advantage. Our decades of experience in acquiring knowledge and expertise about duty cycles and performance requirements across multiple platforms, vocations and applications resulted in the use of over 10,000 unique transmission calibrations with our transmission control modules in

2010. We leverage this knowledge to develop highly customized software algorithms that control the operation, performance and special functions of our fully-automatic transmissions. This expertise allows us to offer advanced designs properly matched to an OEM's engines and optimized for the intended vocation. We employ approximately 350 engineers and technical specialists in our product engineering group who are singularly focused on developing innovative new products and end user driven enhancements. Our engineering organization, collaboratively with our end users and OEMs, identifies and develops new products and technologies to remain at the forefront of industry innovation. As evidence of our commitment to innovation and technology, we have invested over \$325.0 million in product-related research and development from 2008 to 2010. Our technical capabilities were further validated by a \$62.8 million cost-share grant from the U.S. Department of Energy, or DOE, in August 2009, to develop the capacity to manufacture cost competitive commercial truck hybrid-propulsion systems.

#### ***Long-Standing OEM Customer Relationships***

We maintain relationships with over 300 OEM customers and have been a long-standing key supplier to the leading commercial vehicle OEMs such as BAE Systems plc, Blue Bird Corporation, Daimler AG, Dennis Eagle Ltd., Hino Motors, Ltd., Iveco S.p.A., Isuzu Motors Limited, MAN SE, Navistar International Corporation, New Flyer Industries Inc., Oshkosh Corporation, PACCAR Inc, Scania AB, Terex Corporation and AB Volvo. We have also developed relationships with OEMs in emerging markets, such as Ashok Leyland Limited, Dongfeng Motor Co., Ltd., China FAW Group Corporation and Tata Motors Limited, and continue to be the leading supplier to the U.S. military medium- and heavy-tactical vehicle program. Many of our relationships with our largest customers span over 45 years. Our OEM customers often seek to ensure supply of our products by entering into long-term agreements with us that generally include defined levels of mutual commitment with respect to growing Allison's presence in the OEMs' products and promotional efforts, pricing and sharing of commodity cost risk. The typical length of our customer agreements is five years. OEM customers representing approximately 78% of our 2010 North American on-highway unit volume participate in long-term supply agreements with us. We have also enjoyed over a half century of government collaboration on military and defense products, and we continue to work closely with various government agencies on hybrid-propulsion products and technologies.

#### ***Well-Positioned to Capitalize on Multiple Growth Opportunities***

We are in a strong position to benefit from multiple secular growth trends in our industry as well as actively develop new areas of growth due to our market leadership, history of innovation, technological capabilities, brand recognition, global presence and service network supporting a large installed-base of vehicles equipped with Allison transmissions. We believe our significant presence supplying our transmissions for use in bus applications will serve as an entry point for additional vocation and platform penetration in markets outside North America, including China, India, Brazil and Eastern Europe. In addition, we have developed a new fully-automatic transmission for a portion of the Class 8 tractor market we call the "metro" truck market, a term for tractors that are used primarily in urban environments more than 60% of the time. We currently have a very limited presence in the metro market, which we estimate to have comprised approximately 30% of the Class 8 tractor market between 1998 and 2010, and we believe our new, fully-automatic transmission will be well suited to meet the unique duty cycle requirements of this market. We also continue to invest in hybrid technologies, leveraging our successful transit bus hybrid-propulsion system to develop a fully-automatic hybrid-propulsion system for Class 6-8 commercial trucks, which we expect to be available in 2012.

#### ***Strong Margins and Cash Flow Generation***

We have generated strong margins with low maintenance capital expenditures and limited cash income taxes, resulting in strong cash flow through the recent global economic downturn. We believe our margins are sustainable and are supported by our vocational pricing model, our premier brand, superior product attributes and operational scale. In addition, the ability to shift our production and flex our workforce to match demand helps us

closely manage our manufacturing costs and increase labor productivity. We believe our recent investments in manufacturing facilities located in low-cost countries position us to realize incremental cost savings. Additionally, as approximately 60% of our U.S. hourly labor force is currently retirement eligible, we expect our U.S. multi-tier labor agreement will enable us to improve our cost structure over time. As production volumes continue to recover in our developed markets and we execute on our growth strategies, we expect to benefit from future margin expansion through improved operating leverage.

The Acquisition Transaction was structured as an asset purchase for U.S. federal income tax purposes, which resulted in a step-up in the U.S. federal income tax basis of our assets that allows us to take substantial amortization deductions for U.S. federal income tax purposes. As of December 31, 2010, we had \$3.6 billion of unamortized intangible assets which may be amortized over a period of approximately 11.6 years. These assets are expected to generate U.S. federal income tax deductions of approximately \$313 million annually through 2021 and approximately \$183 million in 2022. If we generate taxable income in the future, the amortization of these assets, together with existing U.S. net operating losses of \$383.1 million as of December 31, 2010, will be used to reduce our U.S. federal cash income tax payments.

#### ***Diverse End Markets***

We benefit from serving a wide range of end markets, customers and vocations. This diversification provides stability by mitigating the impact of cyclical declines in any one end market in any given period. Our end markets include a wide array of on-highway trucks (distribution, refuse, construction, fire and emergency), buses (primarily school and transit), motorhomes, off-highway vehicles and equipment (primarily energy and mining) and military vehicles (wheeled and tracked). We also benefit from a recurring base of aftermarket sales and service sales driven by the total number of Allison-equipped vehicles in service, a number that has increased over time. We have virtually no exposure today to the highly cyclical Class 8 tractor market. We believe our diverse end markets and the lack of exposure to the Class 8 tractor market helped moderate the impact of the recent global economic downturn on our financial performance.

#### ***Proven Management Team***

Our management team has established a track record for operational excellence and profitable growth. Our top six executives have an average tenure of 21 years with Allison and an average of 26 years of industry experience. The management team has consistently demonstrated its ability to improve our operations. For example, the management team successfully managed our separation from General Motors in 2007, implemented work force and manufacturing optimization initiatives, and negotiated a mutually-beneficial Allison specific U.S. hourly labor agreement with the UAW, establishing a multi-tier wage and benefit structure and a profit-sharing incentive compensation plan for the hourly workforce tied to identical performance metrics as those used for the management team and salaried employees. As a result, we have been able to improve our Adjusted EBITDA margin by 560 basis points since 2008. In addition, the management team has expanded manufacturing capacity in Chennai, India and Szentgotthard, Hungary and led the effort to significantly increase our investment in research and development with an emphasis on new products and more advanced transmission technologies.

### **Our Business Strategy**

#### ***Expand Our Global Leadership***

We will continue to leverage our brand and reputation to grow our share in all of our served markets. We remain committed to aggressively investing in research and development to enhance our leadership in advanced fuel efficient transmission technologies and innovative new products. We expect to introduce new vocational offerings that provide a superior value proposition to our customers with specific calibrations customized for their particular duty cycles. Additionally, we expect to continue to invest in end user and dealer targeted marketing programs to sustain pull-through demand for our products. As a result, we believe we are well positioned to participate in the anticipated cyclical recovery in commercial vehicle production in our developed

markets, which experienced growth in 2010 and are forecast to return to historical average levels of demand over the coming years. We are also positioned to capitalize on secular growth opportunities by expanding into adjacent end markets with the introduction of new products.

***Accelerate Penetration of Our Products in Emerging Markets***

We intend to drive the increased rate of adoption of fully-automatic transmissions in commercial vehicles globally by pursuing the same vocational strategy we employ in North America, where we increased our share of all transmissions sold in our core on-highway markets from 39% in 1998 to 56% in 2010. We believe the rate of adoption of fully-automatic transmissions outside North America will continue to increase from the current penetration rate of less than 5% as we further educate end users on the value proposition of our products and they continue to modernize their fleets. In particular, China, India, Brazil and Eastern Europe represent significant growth markets for us as automaticity, which we estimate to be low in these markets, increases. In China and India, we intend to leverage our existing presence in transit bus and off-highway vehicles and equipment to gain additional vehicle releases with OEMs and drive automaticity in targeted vocations. In China, for example, we have grown significantly in commercial vehicles used to transport cargo at shipping ports (dock spotters), increasing our share from essentially 0% in 2004 to virtually 100% in 2010. In targeted vocations such as fire and emergency, construction and specialty vehicles (e.g., crane carriers), we have increased the number of vehicle configurations in which our transmissions are available from 17 in 2008 to 53 in 2010, and we expect this trend to continue in the coming years. In Brazil, Eastern Europe and India we will continue to pursue a similar vocational strategy in addition to focusing on growth opportunities in wheeled military vehicles in India and Turkey and off-highway vehicles and equipment in Brazil and India.

To support our strategies in these emerging markets, we established new manufacturing facilities in Chennai, India, in 2010 and expect to complete another facility in Szentgotthard, Hungary, in 2011. These facilities will be used to manufacture components for our global manufacturing operations as well as assemble transmission products for emerging markets. In addition, since 2007, we have increased our marketing, sales and service headcount in the China, India, Brazil and Russia regions by 68%, including a 155% increase in China and India.

***Continue Development of New Technologies and Products***

We have more new products under development today than at any time in our history. We are leveraging our success in hybrid transit buses to introduce a new hybrid-propulsion system for medium- and heavy-duty commercial trucks for which we received a \$62.8 million cost-share grant from the DOE. We will pursue sales in the Class 6-7 and Class 8 straight truck markets as well as other end markets with this technology. We expect the first of these new products, for the medium-duty commercial truck market, will begin production in late 2012. The objective for this family of hybrid-propulsion products is to create an improvement in fuel efficiency of 25% to 35% for a typical vehicle, dependent upon vocation and duty cycle. We are also developing a new fully-automatic transmission for Class 8 tractors used in metro applications, which we believe offers better fuel efficiency and performance than manual transmissions and AMTs. We will continue to invest in these and other advanced fuel efficient technologies.

***Leverage Our Efficient Cost Structure to Deliver Strong Cash Flow***

We intend to capitalize on our scalable cost structure to enhance our margins and deliver improved earnings and cash flow. We have improved our cost structure and manufacturing efficiency through the implementation of lean manufacturing strategies, among other operational efficiency-focused initiatives, and we expect these improvements to continue. Additionally, management expects to continue to employ a disciplined approach to capital expenditures and operating working capital consistent with past practice, all of which we believe will result in strong earnings growth and cash flow generation.

## **Risks Related to Our Business**

Investing in our common stock involves substantial risk. You should carefully consider all of the information in this prospectus prior to investing in our common stock. There are several risks related to our business that are described under “Risk Factors” elsewhere in this prospectus. Among these important risks are the following:

- our participation in markets that are competitive;
- general economic and industry conditions;
- our ability to prepare for, respond to and successfully achieve our objectives relating to technological and market developments and changing customer needs;
- the discovery of defects in our products, resulting in delays in new model launches, recall campaigns and/or increased warranty costs and reduction in future sales or damage to our brand and reputation;
- the concentration of our net sales in our top five customers and the loss of any one of these;
- labor strikes, work stoppages or similar labor disputes, which could significantly disrupt our operations or those of our principal customers;
- our ability to maintain cost controls;
- risks related to our substantial indebtedness;
- Carlyle and Onex will be able to control our common stock; and
- other risks and uncertainties, including those listed under the caption “Risk Factors.”

## **Our Sponsors**

As of March 1, 2011, Carlyle and Onex each owned approximately 49.8% of our common stock with the remainder owned by certain current directors and employees.

Carlyle is a global alternative asset manager with \$97.7 billion of assets under management committed to 76 funds as of September 30, 2010. Carlyle invests across three asset classes — private equity, real estate and credit alternatives — in Africa, Asia, Australia, Europe, North America and South America focusing on aerospace & defense, industrial & transportation, consumer & retail, energy & power, financial services, healthcare, infrastructure, technology & business services and telecommunications & media. Since 1987, the firm has invested \$64.7 billion of equity in 1,015 transactions. Carlyle employs more than 900 people in 19 countries. Representative Carlyle transactions include the acquisitions of The Hertz Corporation, the largest worldwide car rental brand, Booz Allen, a provider of management consulting for businesses and governments, Kinder Morgan, an energy pipeline and storage company, and The Nielsen Company, an information and data measurement company.

Onex is one of North America’s oldest and most successful investment firms committed to acquiring and building high-quality businesses in partnership with talented management teams. Onex makes private equity investments through the Onex Partners and ONCAP families of funds and has completed 290 acquisitions with a total value of approximately \$49 billion Canadian Dollars. Over Onex’s history, it has had extensive experience investing in industrial businesses. Onex’s recent investments include Tomkins Limited, Husky International Ltd., Carestream Health, Inc, Hawker Beechcraft Corporation and Spirit AeroSystems, Inc. Onex’s businesses generate annual revenues of \$36 billion Canadian Dollars have assets of \$42 billion Canadian Dollars and employ more than 238,000 people worldwide. Onex shares trade on the Toronto Stock Exchange under the stock symbol OCX.

**Corporate Information**

Allison Transmission Holdings, Inc. was incorporated in Delaware on June 22, 2007. Our principal executive offices are located at 4700 West 10th Street, Indianapolis, IN 46222 and our telephone number is (317) 242-5000. Our internet address is [www.allisontransmission.com](http://www.allisontransmission.com). The contents of our website are not part of this prospectus.

**The Offering**

Common stock offered by us	shares
Common stock outstanding after this offering	shares
Overallotment option	We have granted the underwriters a 30-day option to purchase up to an additional shares of our common stock at the initial public offering price to cover overallotments, if any.
Use of proceeds	We estimate we will receive net proceeds of approximately \$ million from this offering, based on an assumed public offering price of \$ per share, which is the midpoint of the range set forth on the cover page of this prospectus, and after deducting underwriting discounts and commissions and estimated offering expenses payable by us. We intend to use the net proceeds from this offering for the repayment of indebtedness and for general corporate purposes. See "Use of Proceeds" for additional information.
Proposed stock exchange symbol	" ."
Risk factors	See "Risk Factors" beginning on page 16 of this prospectus for a discussion of factors you should carefully consider before deciding to invest in our common stock.

The number of shares of our common stock to be outstanding after completion of this offering is based on shares outstanding as of March 1, 2011 and excludes:

- shares of common stock issuable upon the exercise of options outstanding at a weighted average exercise price of \$ per share; and
- shares of common stock reserved for issuance under our 2011 Equity Incentive Award Plan, which we plan to adopt in connection with this offering.

Unless we specifically state otherwise, all information in this prospectus assumes:

- the conversion of shares of non-voting common stock held by current employees to common stock concurrent with the consummation of this offering;
- no exercise of the overallotment option by the underwriters; and
- an initial offering price of \$ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus.

Concurrently with the closing of this offering, the number of our authorized common stock will be increased to shares, and each share of common stock then outstanding will be split into shares of common stock by way of a stock split. Unless we specifically state otherwise, the share information in this prospectus reflects the increase in the authorized number of our common stock and the stock split.

### Summary Historical Financial Data

The following tables set forth our summary historical financial data for the years ended December 31, 2010, 2009 and 2008. Our summary historical balance sheet data as of December 31, 2010, 2009 and 2008 and income statement data for each of the years in the three-year period ended December 31, 2010 has been derived from our audited financial statements. The financial data set forth below are not necessarily indicative of future results of operations. This data should be read in conjunction with, and is qualified in its entirety by reference to, the “Selected Consolidated Financial Data,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and “Capitalization” sections and our financial statements and notes thereto included elsewhere in this prospectus.

(in millions, except for share and per share data)	For the years ended December 31,		
	2010	2009	2008
<b>Consolidated Statement of Operations Data:</b>			
Net sales	\$ 1,926.3	\$ 1,766.7	\$ 2,061.4
Cost of sales	1,098.1	1,146.9	1,325.5
Gross profit	828.2	619.8	735.9
Operating expenses:			
Selling, general and administrative expenses	384.9	391.2	412.6
Engineering — research and development	101.5	89.7	88.6
Trade name impairment	—	190.0	179.8
Total operating expenses	486.4	670.9	681.0
Operating income (loss)	341.8	(51.1)	54.9
Other income (expense), net:			
Interest income	3.5	1.4	5.1
Interest expense	(281.0)	(235.6)	(391.0)
Other income, net	19.0	2.8	40.0
Total other income (expense), net	(258.5)	(231.4)	(345.9)
Income (loss) before income taxes	83.3	(282.5)	(291.0)
Income tax expense	(53.7)	(41.4)	(37.1)
<b>Net income (loss)</b>	<b>\$ 29.6</b>	<b>\$ (323.9)</b>	<b>\$ (328.1)</b>
<b>Earnings (Loss) Per Share Data:</b>			
Basic and diluted earnings (loss) per share	\$ 0.19	\$ (2.12)	\$ (2.14)
Weighted-average shares outstanding (in thousands)	153,053	153,015	153,121
<b>Consolidated Balance Sheet Data:</b>			
Cash and cash equivalents	\$ 252.2	\$ 153.1	\$ 237.9
Property, plant & equipment — net	595.3	621.1	637.9
Total assets	5,310.4	5,410.8	5,977.8
Total current liabilities	417.5	393.6	570.9
Total debt	3,671.1	3,874.1	3,991.3
Stockholders’ equity	741.7	736.6	1,015.5
<b>Statement of Cash Flows Data:</b>			
Net cash provided by operating activities	\$ 388.9	\$ 168.7	\$ 268.1
Net cash used for investing activities	(95.3)	(113.2)	(74.9)
Net cash used for financing activities	(197.9)	(135.4)	(188.1)
<b>Other Financial and Operating Data:</b>			
Capital expenditures	\$ 73.8	\$ 88.2	\$ 75.3
Adjusted net income(1)	273.7	49.6	92.7
Adjusted EBITDA(1)	617.0	501.3	544.0
Adjusted EBITDA margin(1)	32.0%	28.4%	26.4%

(1) We disclose Adjusted net income, Adjusted EBITDA and Adjusted EBITDA margin, which are non-GAAP measures, because we believe they assist investors and analysts in comparing our performance across reporting periods on a consistent basis by excluding items that we do not believe are indicative of our core operating performance. We believe these metrics are used in the financial community, and we present these

metrics to enhance investors understanding of our operating performance and cash flow. You should not consider Adjusted net income, Adjusted EBITDA and Adjusted EBITDA margin as an alternative to net income (loss), determined in accordance with GAAP, as an indicator of operating performance, or as an alternative to net cash provided by operating activities, determined in accordance with GAAP, as an indicator of Allison's cash flow.

We use Adjusted net income, Adjusted EBITDA and Adjusted EBITDA margin to evaluate our performance relative to that of our peers. In addition, the Senior Secured Credit Facility has certain covenants that incorporate Adjusted EBITDA. However, Adjusted net income, Adjusted EBITDA and Adjusted EBITDA margin are not measurements of financial performance under GAAP, and these metrics may not be comparable to similarly titled measures of other companies. Adjusted net income is calculated as the sum of net income (loss), interest expense, net, income tax expense, trade name impairment and amortization of intangible assets, less cash interest expense, net and cash income taxes. Adjusted EBITDA is calculated as the sum of Adjusted net income, cash interest expense, net, cash income taxes, depreciation of property, plant and equipment and other adjustments as defined by the Senior Secured Credit Facility and as further described below. Adjusted EBITDA margin is calculated as Adjusted EBITDA divided by net sales.

A directly comparable GAAP measure to Adjusted net income and Adjusted EBITDA is net income (loss). The following is a reconciliation of net income (loss) to Adjusted net income, Adjusted EBITDA and Adjusted EBITDA margin:

(in millions)	Year ended December 31,		
	2010	2009	2008
<b>Net income (loss)</b>	\$ 29.6	\$ (323.9)	\$ (328.1)
plus:			
Interest expense, net	277.5	234.2	385.9
Cash interest expense, net	(239.1)	(242.5)	(334.2)
Income tax expense	53.7	41.4	37.1
Cash income taxes	(2.2)	(5.5)	(4.3)
Trade name impairment	—	190.0	179.8
Amortization of intangible assets	154.2	155.9	156.5
<b>Adjusted net income</b>	<b>\$ 273.7</b>	<b>\$ 49.6</b>	<b>\$ 92.7</b>
Cash interest expense, net	239.1	242.5	334.2
Cash income taxes	2.2	5.5	4.3
Depreciation of property, plant and equipment	99.6	105.9	106.6
Dual power inverter module extended coverage(a)	(1.9)	11.4	2.2
Gain on repurchases of long-term debt(b)	(3.3)	(8.9)	(21.0)
Unrealized loss (gain) on hedge contracts(c)	0.1	(5.8)	—
Reduction of supply contract liability(d)	(3.4)	—	—
Restructuring charges(e)	—	47.9	15.7
Legacy employee benefits(f)	—	36.6	(14.6)
Equity income(g)	—	3.1	(3.1)
Benefit plan adjustment(h)	—	2.5	—
Transitional costs(i)	—	2.0	19.6
Pension curtailment adjustment(j)	—	(1.3)	—
UAW Local 933 signing bonus(k)	—	—	4.4
Employee disability coverage(l)	—	—	(7.0)
Other, net(m)	10.9	10.3	10.0
<b>Adjusted EBITDA</b>	<b>\$ 617.0</b>	<b>\$ 501.3</b>	<b>\$ 544.0</b>
Net sales	\$1,926.3	\$1,766.7	\$2,061.4
<b>Adjusted EBITDA margin</b>	<b>32.0%</b>	<b>28.4%</b>	<b>26.4%</b>

- (a) During June 2007 our Predecessor, Allison Transmission, an operating unit of General Motors, provided its customers an extended coverage program for the Dual Power Inverter Module, or DPIM, used on H 40/50 EP hybrid-propulsion transit bus systems. Certain units were falling short of their expected service life and the Predecessor decided to cover repair/replacement for an extended period. In accordance with the terms of an agreement with General Motors, we are responsible for the first \$12.0 million of cost and General Motors is responsible for the next \$34.0 million of costs, with any amount over \$46.0 million being shared one-third by Allison and two-thirds by General Motors for shipments through June 30, 2009. Special coverage expenses associated with shipments subsequent to June 30, 2009 are our responsibility. The estimated total cost of servicing the installed base required us to record charges of \$11.4 million and \$2.2 million (recorded in selling, general and administrative expenses) for the years ended 2009 and 2008, respectively, for our pro-rata share under the terms of the agreement.

During 2010, we conducted a review of the DPIM liability using current claim and field information. The completion of the review resulted in a \$22.7 million reduction of the DPIM liability, partially offset by a \$20.8 million reduction of the General Motors receivable totaling a net credit of \$1.9 million (recorded in selling, general and administrative expenses). The total liability and General Motors receivable will continue to be reviewed for any changes in estimate as additional claims data and field information become available.

- (b) Represents a (\$3.3) million, (\$8.9) million and (\$21.0) million gain (recorded in other income, net) realized on repurchases and repayments of the Senior Secured Credit Facility and Senior Notes in 2010, 2009 and 2008, respectively.
- (c) Represents a \$0.1 million unrealized loss (recorded in other income, net) on the mark to market of our commodity and foreign currency hedge contracts in 2010. Represents a (\$5.8) million unrealized gain (recorded in other income, net) on the mark to market of our commodity contracts in 2009.
- (d) Represents an adjustment of (\$3.4) million (recorded in other income, net) due to the elimination of a severance liability required under the contract manufacturing agreement with General Motors-Powertrain-Hungary. The original contract manufacturing agreement was replaced with a new agreement that expires in the second quarter of 2016.
- (e) Represents restructuring expenses related to the employee headcount reduction programs announced in the fourth quarter of 2008 (salaried retirement incentive program) and the first quarter of 2009 (hourly retirement incentive program and salaried reduction in force program), collectively referred to as the "Employee Headcount Reduction Programs." The \$47.9 million (\$29.4 million recorded in cost of sales, \$1.0 million recorded in selling, general and administrative expenses, \$0.2 million recorded in engineering — research and development, and \$17.3 million recorded in other income, net) represents the expense recorded in 2009 while the \$15.7 million (\$11.0 million recorded in cost of sales, \$2.4 million recorded in selling, general and administrative expenses, and \$2.3 million recorded in engineering—research and development) represents the expense recorded in 2008. Expenses include severance costs, pension curtailment loss and OPEB related expenses.
- (f) Represents a charge of \$36.6 million (recorded in cost of sales) to eliminate the OPEB receivables with General Motors, resulting from a Cure Agreement pursuant to General Motors' emergence from bankruptcy in 2009. As a result, we have no further obligation to reimburse General Motors for our pro-rata share of OPEB expenses.
- Represents a (\$14.6) million adjustment (recorded in other income, net) to record the net change in our General Motors receivable/payable related to our share of legacy employee benefits paid to retired Allison employees driven by unrealized actuarial gains and losses in 2008.
- (g) Represents a \$3.1 million adjustment (recorded in cost of sales) of shared income with General Motors. In August 2007, we entered into an agreement with General Motors to share income from General Motors' Brazil transmission business until we could establish our own legal entity in Brazil. We established our Brazil legal entity in December 2008 at which time we, with agreement from General Motors, accrued the adjustment for shared income. This adjustment was considered a sharing of equity income until cash was received from General Motors according to the Senior Secured Credit Facility. General Motors disbursed the funds in February of 2009.

- (h) Represents a \$2.5 million charge (\$0.8 million recorded in cost of sales, \$0.9 million recorded in selling, general and administrative expenses, and \$0.8 million recorded in engineering—research and development) related to certain differences between benefits promised under certain defined benefit plans and the administration of those plans.
- (i) Represents costs to establish us as a stand-alone entity of \$2.0 million (\$1.1 million recorded in selling, general and administrative expenses and \$0.9 million recorded in engineering — research and development) in 2009 and \$19.6 million (\$19.1 million recorded in selling, general and administrative expenses and \$0.5 million recorded in cost of sales) in 2008. These costs include, but are not limited to, costs associated with information technology, legal, human resources, government compliance, payroll, accounts receivable, accounts payable, tax, treasury and engineering.
- (j) Represents a curtailment adjustment of (\$1.3) million (recorded in selling, general and administrative expenses) for our European subsidiary's defined benefit plan resulting from an adjustment in retirement benefits for its employees.
- (k) Represents a \$4.4 million (recorded in cost of sales) bonus to UAW Local 933 — represented employees recorded in the second quarter of 2008 for ratifying a local labor contract on May 13, 2008, which is effective May 19, 2008 through November 13, 2012.
- (l) Represents a (\$7.0) million adjustment (\$4.9 million recorded in cost of sales, \$1.3 million recorded in selling, general and administrative expenses and \$0.8 million recorded in engineering — research and development) recorded in the fourth quarter of 2008 to decrease our long-term employee disability liability by converting from self insured to a premium based insurance program.
- (m) Represents employee stock compensation expense, service fees (recorded in selling, general and administrative expenses) paid to our Sponsors and a 2010 adjustment of (\$0.4) million (recorded in selling, general and administrative expenses) related to the settlement of litigation which originated with the Predecessor but was assumed by the Company as part of the Acquisition Transaction.

## RISK FACTORS

*An investment in our common stock involves a high degree of risk. You should consider carefully the following risks and other information contained in this prospectus before you decide whether to buy our common stock. If any of the events contemplated by the following discussion of risks should occur, our business, results of operations and financial condition could suffer significantly. As a result, the market price of our common stock could decline, and you may lose all or part of the money you paid to buy our common stock. The following is a summary of all the material risks known to us; however, additional risks not known to us or that we believe to be immaterial could also impair our business.*

### Risks Related to Our Business

***We participate in markets that are competitive, and our competitors' actions could have a material adverse effect on our business, results of operations and financial condition.***

Our business operates in competitive markets. We compete against other global manufacturers on the basis of product performance, quality, price, distribution capability and service in addition to other factors. Actions by our competitors could lead to downward pressure on prices and/or a decline in our market share, either or both of which could adversely affect our results. We face competition from domestic manufacturers of manual transmissions, AMTs and fully-automatic transmissions for commercial vehicles. In particular, we could face competition from well-capitalized entrants into the transmission market, as well as from aggressive pricing tactics by other transmission manufacturers trying to gain market share. We also face competition from international manufacturers in our international operations and from international manufacturers entering our domestic market.

In addition, some of our customers or future customers are OEMs that manufacture or could in the future manufacture transmissions for their own products. Despite their transmission manufacturing abilities, our existing OEM customers have chosen to purchase certain transmissions from us due to customer demand, resulting from the quality of our transmission products, and in order to reduce fixed costs, eliminate production risks and maintain company focus. However, we cannot be certain these customers will continue to purchase our products in the future. Increased levels of production insourcing by these customers could result from a number of factors, such as shifts in our customers' business strategies, acquisition by a customer of another transmission manufacturer, the inability of third-party suppliers to meet specifications and the emergence of low-cost production opportunities in foreign countries. As a result, these OEMs may use transmissions produced internally or by another manufacturer and no longer choose to purchase transmissions from us. A significant reduction in the level of external sourcing of transmission production by our OEM customers could significantly impact our net sales and cash flows and, accordingly, have a material adverse effect on our business, results of operations and financial condition.

***Continued volatility in and disruption to the global economic environment may have a material adverse effect on our business, results of operations and financial condition.***

The global economy has recently experienced a period of significant volatility and disruption. The commercial vehicle industry as a whole has been more adversely affected by the economic conditions than many other industries, as the purchase or replacement of commercial vehicles, which are durable items, can be deferred for many reasons, including reduced spending by end users. These deferred acquisitions have had a material adverse effect on our results of operations. Many of the economic and market conditions that drove the drop in commercial vehicle sales continue to affect sales. Furthermore, financial instability or bankruptcy at any of our suppliers or customers could disrupt our ability to manufacture our products and impair our ability to collect receivables, any or all of which may have a material adverse effect on our business, results of operations and financial condition.

***Certain of our end users operate in highly cyclical industries, which can result in uncertainty and significantly impact the demand for our products, which could have a material adverse effect on our business, results of operations and financial condition.***

Some of the markets in which we operate, including energy, mining, construction, distribution and motorhomes, exhibit a high degree of cyclicity. Decisions to purchase our transmissions are largely a result of the performance of these and other industries we serve. If demand for output in these industries decreases, the demand for our products will likely decrease. Demand in these industries is impacted by numerous factors including prices of commodities, rates of infrastructure spending, housing starts, real estate equity values, interest rates, consumer spending, fuel costs, energy demands, municipal spending and commercial construction, among others. Increases or decreases in these variables globally may significantly impact the demand for our products, which could have a material adverse effect on our business, results of operations and financial condition. If we are unable to accurately predict demand, we may be unable to meet our customers' needs, resulting in the loss of potential sales, or we may manufacture excess products, resulting in increased inventories and overcapacity in our production facilities, increasing our unit production cost and decreasing our operating margins.

***Our long-term growth prospects and results of operations may be impaired if end users and OEMs do not increase their rate of adoption of fully-automatic transmissions in commercial vehicles.***

Our long-term growth strategy depends in part on an increased rate of automaticity outside North America. We have established new manufacturing facilities in India and Hungary to support this anticipated trend toward automaticity. We have also dedicated significant human resources to serve markets where we anticipate increased adoption of automaticity, including Brazil, Russia, China and India. If the rate of adoption of fully-automatic transmissions does not increase as we have anticipated, our long-term growth prospects and results of operations may be impaired.

***Any events that impact our brand name, including if the products we manufacture or distribute are found to be defective, could have an adverse effect on our reputation, cause us to incur significant costs and negatively impact our business, results of operations and financial condition.***

We face exposure to product liability claims in the event that the use of our products has, or is alleged to have, resulted in injury, death or other adverse effects. We currently maintain product liability insurance coverage, but we cannot be assured that we will be able to obtain such insurance on acceptable terms in the future, if at all, or that any such insurance will provide adequate coverage against potential claims. Product liability claims can be expensive to defend and can divert the attention of management and other personnel for long periods of time, regardless of the ultimate outcome. An unsuccessful product liability defense could have a material adverse effect on our business, results of operation, financial condition or prospects. If one of our products is determined to be defective, we may face substantial warranty costs and may be responsible for significant costs associated with a product recall or a redesign. We have had defect and warranty issues associated with certain of our products in the past, such as our H 40/50 EP hybrid-propulsion transit bus system, among others, and we cannot assure you similar product defects will not occur in the future.

Furthermore, our business depends on the strong brand reputation we have developed. In addition to the risk of defective products we face with our new product installations, we also face significant risks in our efforts to penetrate new markets, where we have limited brand recognition. We rely on our reputation with end users of our transmissions to specify an Allison transmission when purchasing new vehicles from our OEM customers. In the event we are not able to maintain or enhance our brand in these new markets or our reputation is damaged in our existing markets as a result of product defects or recalls, we may face difficulty in maintaining our pricing positions with respect to some of our products or experience reduced demand for our products, which could negatively impact our business, results of operations and financial condition.

***We may not be successful in introducing our new products and responding to customer needs.***

We currently have more new products under development than at any time in our history as a result of increased spending on new product development. The development of new products is difficult and the timetable

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for commercial release is uncertain, and we may not be successful in introducing our new products and responding to customer needs. If we do not adequately anticipate the changing needs of our customers by developing and introducing new and effective products on a timely basis, our competitive position and prospects could be harmed. If our competitors are able to respond to changing market demands and adopt new technologies more quickly than we do, demand for our products could decline, our competitive position could be harmed, and we will not be able to recoup a return on our development investments. Moreover, changing customer demands as well as evolving safety and environmental standards could require us to adapt our products to address such changes. As a result, in the future we may experience delays in the introduction of some or all of our new products or modifications or enhancements of existing products. Furthermore, there may be production delays due to unanticipated technological setbacks, which may, in turn, delay the release of new products to our end users. If we experience significant delays in production, our net sales and results of operations may be materially adversely affected.

### ***Our success depends on continued research and development efforts, the outcome of which is uncertain.***

Our success depends on our ability to improve the efficiency and performance of our transmissions, and we invest significant resources in research and development in order to do so. Nevertheless, the research and development process is time-consuming and costly, and offers uncertain results. We may not be able through our research and development efforts to keep pace with improvements in transmission-related technology of our competitors, and licenses for technologies that would enable us to keep pace with our competitors may not be available on commercially reasonable terms if at all. Finally, our research and development efforts, and generally our ability to introduce improved products in the marketplace, may be constrained by the patents and other intellectual property rights of competitors and others.

### ***Sales of our hybrid-propulsion products may be negatively impacted if governmental entities elect not to subsidize such products.***

The sales of our hybrid-propulsion systems for use in transit buses may be negatively impacted if governmental entities elect not to subsidize such products. In 2010, we derived approximately 8% of our net sales from the sale of hybrid-propulsion systems for use in transit buses to city, state and federal governmental entities, which are subject to certain subsidies by those entities. If any of our city, state or other federal governmental customers elect to curtail the subsidies relating to our hybrid-propulsion products for any reason, including governmental budget reductions and related fiscal matters, failure of our technology or redundancy by alternative technologies created by our competitors, our sales from our hybrid-propulsion products may be materially adversely affected.

### ***Our sales are concentrated among our top five OEM customers and the loss or consolidation of any one of these customers or the discontinuation of particular vehicle models for which we are a significant supplier could reduce our net sales and have a materially adverse effect on our results of operations.***

We have in the past and may in the future derive a significant portion of our net sales from a relatively limited number of OEM customers. For the years ended December 31, 2010, 2009 and 2008, our top five customers accounted for approximately 41%, 43% and 41% of our net sales, respectively. Our top two customers, Navistar and Daimler, each accounted for approximately 10% of our net sales during 2010. As discussed earlier in this section, the vehicle industry, including our customers and suppliers, is experiencing significant disruption in the current economic environment. The loss of, or consolidation of any one of these customers, or a significant decrease in business from, one or more of these customers could harm our business. In addition, the discontinuation of, particular vehicle models for which we are a significant supplier could reduce our net sales and have a material adverse effect on our results of operations.

### ***Our international operations, in particular our emerging markets, are subject to various risks which could have a material adverse effect on our business, results of operations and financial condition.***

Our business is subject to certain risks associated with doing business internationally, particularly in emerging markets. Non-North American net sales represented approximately 18% of our net sales for 2010.

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Most of our operations are in the U.S., but we also have a manufacturing facility in India, a manufacturing services agreement with General Motors Powertrain — Hungary Ltd. and customization centers in Brazil, The Netherlands, India and China. Further, we intend to continue to pursue growth opportunities for our business in a variety of business environments outside the U.S., which could exacerbate the risks set forth below. Our international operations are subject to, without limitation, the following risks:

- the burden of complying with multiple and possibly conflicting laws and any unexpected changes in regulatory requirements;
- foreign currency exchange controls, import and export restrictions and tariffs, including restrictions promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury, and other trade protection regulations and measures;
- political risks, including risks of loss due to civil disturbances, acts of terrorism, acts of war, guerilla activities and insurrection;
- unstable economic, financial and market conditions and increased expenses as a result of inflation, or higher interest rates;
- difficulties in enforcement of third-party contractual obligations and intellectual property rights and collecting receivables through foreign legal systems;
- difficulty in staffing and managing international operations and the application of foreign labor regulations;
- differing local product preferences and product requirements;
- fluctuations in currency exchange rates to the extent that our assets or liabilities are denominated in a currency other than the functional currency of the country where we operate;
- potentially adverse tax consequences from changes in tax laws, requirements relating to withholding taxes on remittances and other payments by subsidiaries and restrictions on our ability to repatriate dividends from our subsidiaries; and
- exposure to liabilities under anti-corruption and anti-money laundering laws, including the U.S. Foreign Corrupt Practices Act and similar laws and regulations in other jurisdictions.

Any one of these factors could materially adversely affect our sales of products or services to international customers or harm our reputation, which could materially adversely affect our business, results of operations and financial condition.

### ***Our international operations require us to comply with anti-corruption laws and regulations of the U.S. government and various international jurisdictions.***

Doing business on a worldwide basis requires us and our subsidiaries to comply with the laws and regulations of the U.S. government and various international jurisdictions, and our failure to comply with these rules and regulations may expose us to liabilities. These laws and regulations may apply to companies, individual directors, officers, employees and agents, and may restrict our operations, trade practices investment decisions and partnering activities. In particular, our international operations are subject to U.S. and foreign anti-corruption laws and regulations, such as the Foreign Corrupt Practices Act, or FCPA. The FCPA prohibits U.S. companies and their officers, directors, employees and agents acting on their behalf from corruptly offering, promising, authorizing or providing anything of value to foreign officials for the purposes of influencing official decisions or obtaining or retaining business or otherwise obtaining favorable treatment. The FCPA also requires companies to

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make and keep books, records and accounts that accurately and fairly reflect transactions and dispositions of assets and to maintain a system of adequate internal accounting controls. As part of our business, we deal with state-owned business enterprises, the employees and representatives of which may be considered foreign officials for purposes of the FCPA. In addition, some of the international locations in which we operate lack a developed legal system and have elevated levels of corruption. As a result of the above activities, we are exposed to the risk of violating anti-corruption laws. Violations of these legal requirements are punishable by criminal fines and imprisonment, civil penalties, disgorgement of profits, injunctions, debarment from government contracts as well as other remedial measures. We have established policies and procedures designed to assist us and our personnel in complying with applicable U.S. and international laws and regulations. However, our employees, subcontractors and agents could take actions that violate these requirements, which could adversely affect our reputation, business, financial condition and results of operations.

***We have experienced significant losses and we cannot assure you that we will achieve or maintain profitability.***

Although our net income for fiscal year 2010 was \$29.6 million, for the 2007 period following the Acquisition Transaction (August 7, 2007 to December 31, 2007) and fiscal years 2008 and 2009, we had net losses of \$164.3 million, \$328.1 million and \$323.9 million, respectively. Our ability to achieve or maintain profitability is dependent upon a number of risks and uncertainties, many of which are beyond our control. We cannot assure you that we will be successful in executing our business strategy and achieving or maintaining profitability, and our failure to do so could have a material adverse effect on the price of our common stock and our ability to satisfy our obligations, including making payments on our indebtedness.

***The current economic environment could adversely affect our ability and the ability of our customers and suppliers to obtain credit.***

In the current economic environment, some of our customers and suppliers may experience serious cash flow problems and, thus, may find it difficult to obtain financing, if financing is available at all. As a result, our customers' need for and ability to purchase our products or services may decrease, and our suppliers may increase their prices, reduce their output or change their terms of sale. Any inability of customers to pay us for our products and services, or any demands by suppliers for different payment terms, may materially and adversely affect our results of operations and financial condition. For example, in 2010, we experienced lower accounts receivable due to a late payment by a significant customer. Furthermore, our suppliers may not be successful in generating sufficient sales or securing alternate financing arrangements, and therefore may no longer be able to supply goods and services to us. In that event, we would need to find alternate sources for these goods and services, and there is no assurance we would be able to find such alternate sources on favorable terms, if at all. Any such disruption in our supply chain could adversely affect our ability to manufacture and deliver our products on a timely basis, and thereby affect our results of operations.

***Labor unrest could have a material adverse effect on our business, results of operations and financial condition.***

As of December 31, 2010, approximately 60% of our U.S. employees, representing over 50% of our total employees, were represented by the UAW and are subject to a collective bargaining agreement. This agreement expires on November 12, 2012. While we intend to negotiate in good faith with the UAW, we cannot guarantee we will be able to renew a collective bargaining agreement on similar or more favorable terms than those that presently exist. We may incur increased labor costs as a result of any of these renegotiations. In addition, many of our direct and indirect customers and vendors have unionized work forces. Strikes, work stoppages or slowdowns experienced by these customers or vendors or their other suppliers could result in slowdowns or closings of assembly plants that use our products or supply materials for use in the production of our products. Organizations responsible for shipping our products may also be impacted by strikes. Any interruption in the delivery of our products could reduce demand for our products and could have a material adverse effect on us.

In general, we consider our labor relations with all of our employees to be good. However, in the future we may be subject to labor unrest. The inability to reach a new agreement could delay or disrupt our operations in

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the affected regions, including the acquisition of raw materials and components, the manufacture, sales and distribution of products and the provision of services. If strikes, work stoppages or lock-outs at our facilities or at the facilities of our vendors or customers occur or continue for a long period of time, our business, results of operations and financial condition may be materially adversely affected.

### ***In the event of a catastrophic loss of one of our key manufacturing facilities, our business would be adversely affected.***

While we manufacture our products in several facilities and maintain insurance covering our facilities, including business interruption insurance, a catastrophic loss of the use of all or a portion of one of our manufacturing facilities due to accident, labor issues, weather conditions, acts of war, political unrest, terrorist activity, natural disaster or otherwise, whether short- or long-term, would have a material adverse effect on our business, results of operations and financial condition. Our most significant concentration of manufacturing is in Speedway, Indiana where we maintain approximately 92% of our production capacity. In addition to our Speedway manufacturing facilities, we currently operate manufacturing facilities in both Szentgotthard, Hungary and Chennai, India. However, those facilities are smaller and newer than the Speedway facility. In the event of a disruption at the Speedway facility, they may not be adequately equipped to operate at a level sufficient to compensate for the volume of production at the Speedway facility due to their size and the fact that they have not yet been tested for such significant increases in production volume.

### ***Increases in cost, disruption of supply or shortage of raw materials or components used in our products could harm our business and profitability.***

We use various raw materials in our business, including corrosion-resistant steel, non-ferrous metals such as aluminum and nickel, and precious metals such as platinum and palladium. We use raw materials directly in manufacturing and in approximately 90% of the transmission components that we purchase from our suppliers. We generally purchase our raw materials on the open market. The prices for these raw materials fluctuate depending on market conditions. In recent years, we have experienced significant increases in the cost of raw materials such as steel, aluminum and nickel, as well as in freight charges, and such volatility in the prices of these commodities could increase the cost of manufacturing our products and providing our services. We may not be able to pass on these costs to our customers, and this could have a material adverse effect on our business, results of operations and financial condition. Even in the event that increased costs can be passed through to customers, our gross margin percentages would decline. Additionally, our suppliers are also subject to fluctuations in the prices of raw materials and may attempt to pass all or a portion of such increases on to us. In the event they are successful in doing so, our margins would decline.

In addition, some of the raw materials and components we use in our business, such as corrosion-resistant steel and aluminum, are available from a limited number of fully-validated suppliers. Due to the limited number of suppliers for some of our raw materials, our business is subject to the risk of additional price fluctuations and periodic delays in the delivery of our raw materials. Any such price fluctuations or delays, if material, could harm our profitability or operations. In addition, the loss of a supplier could result in material cost increases or reduce our production capacity. We also cannot guarantee we will be able to maintain favorable arrangements and relationships with these suppliers. An increase in the cost or a sustained interruption in the supply or shortage of some of these raw materials or components that may be caused by a deterioration of our relationships with suppliers or by events such as natural disasters, power outages, labor strikes, or the like could negatively impact our business, results of operations and financial condition. Although we have agreements with many of our customers that we will pass such price increases through to them, such contracts may be cancelled by our customers and/or we may not be able to recoup the costs of such price increases. Additionally, if we are unable to continue to purchase our required quantities of raw materials on commercially reasonable terms, or at all, if we are unable to maintain or enter into purchasing contracts for commodities, or if delivery of materials from suppliers is delayed or non-conforming, our operations could be disrupted or our profitability could be adversely impacted.

***Exchange rate fluctuations could adversely affect our results of operations and financial position.***

As a result of the expansion of our international operations, currency exchange rate fluctuations could affect our results of operations and financial position. We expect to generate an increasing portion of our net sales and expenses in such foreign currencies as the Japanese Yen, the Euro, the Chinese Yuan Renminbi, the Brazilian Real, the Hungarian Forint and the Indian Rupee. Although we may enter into foreign exchange agreements with financial institutions in order to reduce our exposure to fluctuations in the value of these and other foreign currencies, these transactions, if entered into, will not eliminate that risk entirely. To the extent that we are unable to match net sales received in foreign currencies with expenses paid in the same currency, exchange rate fluctuations could have a negative impact on our results of operations and financial condition. Additionally, because our consolidated financial results are reported in U.S. Dollars, if we generate net sales or earnings in other currencies, the conversion of such amounts into U.S. Dollars can result in an increase or decrease in the amount of our net sales or earnings. Furthermore, we sell certain of our products in our non-North American markets denominated in the U.S. Dollar. To the extent that certain of the local currencies in our non-North American markets are relatively weaker than the U.S. Dollar, whether as a result of foreign governments' influence or otherwise, we could become less price competitive, which could have a material adverse effect on the results of our operations.

***A majority of our sales to the military end market are to U.S. government entities, and the loss of a significant number of our contracts would have a material adverse effect on our results of operations and financial condition.***

Our net sales to the military end market are predominantly derived from contracts (revenue arrangements) with agencies of, and prime system contractors to, the U.S. government. The loss of all or a substantial portion of our net sales to the U.S. government would have a material adverse effect on our results of operations and financial condition. Approximately 23%, or \$449 million, of our net sales for the year ended December 31, 2010 were made directly or indirectly to U.S. government agencies, including the U.S. Department of Defense, or DOD.

A significant portion of our total net sales are for products and services under contracts with various agencies and procurement offices of the DOD or with prime contractors to the DOD. Although these various agencies, procurement offices and prime contractors are subject to common budgetary pressures and other factors, our customers exercise independent purchasing decisions. Because of this concentration of contracts, if a significant number of our DOD contracts and subcontracts are simultaneously delayed or cancelled for budgetary, performance or other reasons, it would have a material adverse effect on our results of operations and financial condition.

Furthermore, we have benefited from the upward trend in DOD budget authorization and spending outlays over recent years, including supplemental appropriations for military operations in Iraq and Afghanistan. However, we expect future DOD spending on wheeled and tracked vehicles will likely decline. In particular, significant volume reductions in one of our Speedway plants, which primarily produces our U.S. military tracked products, may increase operating costs, which directly impacts our competitive advantage and would materially adversely affect our business, results of operations and financial condition. Moreover, if the conflicts in Iraq or Afghanistan were to end completely, the demand for our products may decline significantly, which could have a material adverse effect on our results of operations and financial condition.

In addition to contract cancellations and declines in agency budgets, our future financial results may be adversely affected by:

- curtailment of the U.S. government's use of technology or other services and product providers, including curtailment due to government budget reductions and related fiscal matters;
- developments in Iraq or Afghanistan, or other geopolitical developments that affect demand for our products and services; and
- technological developments that impact purchasing decisions or our competitive position.

***Our business and financial results may be adversely affected by government contracting risks.***

We are subject to various laws and regulations applicable to parties doing business with the U.S. government, including laws and regulations governing performance of U.S. government contracts, the use and treatment of U.S. government furnished property and the nature of materials used in our products. We may be unilaterally suspended or barred from conducting business with the U.S. government, or become subject to fines or other sanctions if we are found to have violated such laws or regulations. As a result of the need to comply with these laws and regulations, we are subject to increased risks of governmental investigations, civil fraud actions, criminal prosecutions, whistleblower law suits and other enforcement actions. The laws and regulations to which we are subject include, but are not limited to, Export Administration Regulations, Federal Acquisition Regulation, International Traffic in Arms Regulations, Foreign Assets Control documentation and regulations from the Bureau of Alcohol, Tobacco and Firearms and the U.S. Foreign Corrupt Practices Act.

U.S. government contracts are subject to modification, curtailment or termination by the U.S. government without prior written notice, either for convenience or for default as a result of our failure to perform under the applicable contract. If terminated by the U.S. government as a result of our default, we could be liable for additional costs the U.S. government incurs in acquiring undelivered goods or services from another source and any other damages it suffers. Additionally, we cannot assign prime U.S. government contracts without the prior consent of the U.S. government contracting officer, and we are required to register with the Central Contractor Registration Database. Furthermore, the U.S. government periodically audits our governmental contract costs, which could result in fines, penalties or adjustment of costs and prices under the contracts.

***We are subject to the requirements of the National Industrial Security Program Operating Manual for our facility security clearance, which is a prerequisite for our ability to perform on classified contracts for the U.S. government.***

Certain contracts with the various departments and agencies of the U.S. government, including the DOD, require that our offices be issued facility security clearances under the National Industrial Security Program. The National Industrial Security Program requires that a corporation maintaining a facility security clearance be effectively insulated from foreign ownership, control or influence, or FOCI. Because one of our principal stockholders is a Canadian entity, we have agreed to, and have implemented, a Security Control Agreement, which we refer to as the SCA, with the Defense Security Service, or DSS, as a suitable FOCI mitigation arrangement under the National Industrial Security Program Operating Manual. A FOCI arrangement is necessary for us to continue to maintain the requisite security clearances to complete performance under these contracts. Failure to reach and/or maintain an appropriate agreement with DSS regarding the appropriate FOCI mitigation arrangement could result in invalidation or termination of the security clearances, which in turn would mean that we would not be able to enter into future contracts with the U.S. government requiring facility security clearances, and may result in the loss of our ability to complete certain of our existing contracts with the U.S. government.

***Our brand and reputation are dependent on the continued participation and level of service of our numerous independent distributors and dealers.***

We work with a network of approximately 1,500 independent distributors and dealers that provide post-sale service and parts and support equipment. Because we depend on the pull-through demand generated by end users for our products, any actions by the independent distributors or dealers, which are not in our control, may harm our reputation and damage the brand loyalty among our customer base. In the event that we are not able to maintain our brand reputation because of the actions of our independent distributors and dealers, we may face difficulty in maintaining our pricing positions with respect to some of our products or have reduced demand for our products, which could negatively impact our business, results of operations and financial condition. In addition, if a significant number of independent dealers were to terminate their contracts, it could adversely impact our business, results of operations and financial condition.

***Our ability to effectively operate could be hindered if we fail to attract and retain key personnel.***

Our ability to operate our business and implement strategies effectively depends, in part, on the efforts of our executive officers and other key employees. The senior management team has established a track record for operational excellence and profitable growth, and has consistently demonstrated its ability to improve our operations. In addition, our future success will depend on, among other factors, the ability to attract and retain qualified personnel, particularly engineers and other employees with critical expertise and skills that support key customers and products. The loss of the services of any of the senior executives or other key employees, or the failure to attract or retain other qualified personnel, including directors and officers, could significantly delay or prevent the achievement of our business objectives and have a material adverse effect on our business.

***Many of the key patents and unpatented technology we use in our business are licensed to us, not owned by us, and our ability to use and enforce such patents and technology is restricted by the terms of the license.***

Protecting our intellectual property rights is critical to our ability to compete and succeed as a company. In connection with the Acquisition Transaction, General Motors granted us an irrevocable, perpetual, royalty-free, worldwide license under a large number of U.S. and foreign patents and patent applications, as well as certain unpatented technology and know-how, to design, develop, manufacture, use and sell fully-automatic transmissions and H 40/50 EP hybrid-propulsion transit bus systems for use in certain vocational vehicles, military vehicles and off-road products, which we refer to as Patent and Technology License Agreement. With respect to the bulk of the intellectual property licensed to us under such license agreement, such license is exclusive with respect to the design, development, manufacture, use and sale of fully-automatic transmissions and H 40/50 EP hybrid-propulsion transit bus systems in vocational vehicles above certain weight rating thresholds, certain military vehicles and certain off-road products and non-exclusive with respect to certain other products that are within the scope of the licensed patents or to which the licensed technology can be applied. We consider the patents and technology licensed under such license agreement, as a whole, to be critical to preserving our competitive position in the market. However, General Motors continues to own such patents and technology, and pursuant to the terms of such license agreement, General Motors has the right, in the first instance, to control the maintenance, enforcement and defense of such patents and the prosecution of the licensed patent applications. In addition, the license agreement limits our ability to sublicense our rights. The Patent and Technology License Agreement permits us to utilize the bulk of the intellectual property rights on an exclusive basis in non-military vehicles with gross vehicle weights above 5900 kilograms (typically Class 4 and higher) with some limited exceptions for General Motors light-duty pickup truck and van platforms. It also permits us to utilize the bulk of the intellectual property rights on an exclusive basis in military vehicles that exceed 4250 kilograms (generally Class 3 to Class 4 and higher). General Motors continues to have the right under such patents and technology to utilize the licensed intellectual property for use in vehicles below the above mentioned rating thresholds as well as some light-duty van and pickup truck platforms.

***We rely on unpatented technology, which exposes us to certain risks.***

We currently do, and may continue in the future to, rely on unpatented proprietary technology. In such regard, we cannot be assured that any of our applications for protection of our intellectual property rights will be approved or that others will not infringe or challenge our intellectual property rights. It is possible our competitors will independently develop the same or similar technology or otherwise obtain access to our unpatented technology.

Although we believe the loss or expiration of any single patent would not have a material effect on our business, results of operations or financial position, there can be no assurance that any one, or more, of the patents licensed from General Motors, or any other intellectual property owned by or licensed to us, will not be challenged, invalidated or circumvented by third parties. In fact, a number of the patents licensed to us by General Motors have expired since the date of the Acquisition Transaction, and others are set to expire in the next few years. When a patent expires, the inventions it discloses can be used freely by others. Thus, the competitive advantage that we gain from the patents licensed to us from General Motors pursuant to the

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Acquisition Transaction will decrease over time, and a greater burden will be placed on our own research and development and licensing efforts to develop and otherwise acquire technologies to keep pace with improvements of transmission-related technology in the marketplace. We enter into confidentiality and invention assignment agreements with employees, and into non-disclosure agreements with suppliers and appropriate customers so as to limit access to and disclosure of our proprietary information. We cannot be assured that these measures will provide meaningful protection for our trade secrets, know-how or other proprietary information in the event of any unauthorized use, misappropriation or disclosure. If we are unable to maintain the proprietary nature of our technologies, our ability to sustain margins on some or all of our products may be affected, which could reduce our sales and profitability. Moreover, the protection provided for our intellectual property by the laws and courts of foreign nations may not be as advantageous to us as the protection available under U.S. law.

### ***Our pension funding obligations could increase significantly due to a reduction in funded status as a result of a variety of factors.***

Our earnings may be positively or negatively impacted by the amount of income or expense recorded for our defined benefit pension plans and other post-retirement benefits. GAAP requires that income or expense for defined benefit pension plans be calculated at the annual measurement date using actuarial assumptions and calculations. These calculations reflect certain assumptions, the most significant of which relate to the capital markets, interest rates and other economic conditions. Changes in key economic indicators can change these assumptions. These assumptions, along with the actual value of assets at the measurement date, will impact the calculation of pension expense for the year. Although GAAP pension expense and pension contributions are not directly related, the key economic indicators that affect GAAP pension expense also affect the amount of cash that we would contribute to our defined benefit pension plans. Because the values of these defined benefit pension plans' assets have fluctuated and will fluctuate in response to changing market conditions, the amount of gains or losses that will be recognized in subsequent periods, the impact on the funded status of the defined benefit pension plans and the future minimum required contributions, if any, could have a material adverse effect on our business, results of operations and financial condition. The magnitude of such impact cannot be determined with certainty at this time. However, the effect of a one percentage point decrease in the assumed discount rate would result in an increase in the December 31, 2010 defined benefit pension plans obligation of approximately \$9.6 million. Likewise, a one percentage point decrease in the effective interest rate for determining defined benefit pension plans contributions would result in an increase in the minimum required contributions for 2011 of approximately \$3.6 million. Similarly, a one percentage point decrease in the assumed discount rate would result in an increase in the December 31, 2010 other post-retirement benefits obligation of approximately \$22.9 million. As of December 31, 2010 the unfunded status of our defined benefit pension plans and other post-retirement benefits was \$16.5 million and \$127.0 million, respectively.

### ***Environmental, health and safety laws and regulations may impose significant compliance costs and liabilities on us.***

We are subject to many environmental, health and safety laws and regulations governing emissions to air, discharges to water, the generation, handling and disposal of waste and the clean up of contaminated properties. Compliance with these laws and regulations is costly. We have incurred and expect to continue to incur significant costs to maintain or achieve compliance with applicable environmental, health and safety laws and regulations. Moreover, if these environmental, health and safety laws and regulations become more stringent in the future, we could incur additional costs in order to ensure that our business and products comply with such regulations. We cannot assure we are in full compliance with all environmental, health and safety laws and regulations. Our failure to comply with applicable environmental, health and safety laws and regulations and permit requirements could result in civil or criminal fines, penalties or enforcement actions, third-party claims for property damage and personal injury, requirements to clean up property or to pay for the costs of cleanup or regulatory or judicial orders enjoining or curtailing operations or requiring corrective measures, including the installation of pollution control equipment or remedial actions. Our failure to comply could also result in our failure to secure adequate insurance for our business, resulting in significant exposure, diminished ability to hedge our risks and material modifications of our business operations.

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We may be subject to liability under the Comprehensive Environmental Response, Compensation and Liability Act and similar state or foreign laws for contaminated properties that we currently own, lease or operate or that we or our predecessors have previously owned, leased or operated, and sites to which we or our predecessors sent hazardous substances. Such liability may be joint and several so that we may be liable for more than our share of contamination, and any such liability may be determined without regard to causation or knowledge of contamination. We or our predecessors have been named potentially responsible parties at contaminated sites from time to time. General Motors continues to perform remedial activities at our Speedway, Indiana manufacturing facilities relating to historical soil and groundwater contamination at the facilities. General Motors is performing such activities pursuant to a voluntary Corrective Action Agreement with the U.S. Environmental Protection Agency, or EPA, which we refer to as the Corrective Action. General Motors retained responsibility for completing all remediation activities covered by the Corrective Action at the Speedway, Indiana facilities, and agreed to indemnify us against certain environmental liabilities. See “Business — Environmental.” There can be no assurances that General Motors will comply with its indemnity obligations or with its remedial obligations at the Speedway, Indiana facilities, or that future environmental remediation obligations will not have a material adverse effect on our results of operations. In addition, we occasionally evaluate various alternatives with respect to our facilities, including possible dispositions or closings. Investigations undertaken in connection with these activities may lead to discoveries of contamination that must be remediated, and closings of facilities may trigger remediation requirements that are not applicable to operating facilities. We may also face lawsuits brought by third parties that either allege property damage or personal injury as a result of, or seek reimbursement for costs associated with, such contamination.

***We could be materially adversely affected by any failure to maintain cost controls.***

We rely on an efficient cost structure and operating discipline to achieve strong operating margins. There are many factors that could affect our ability to realize expected cost savings or achieve expected cost savings in the future that we are not able to control, including the inability to meet demand through our low-cost country sourcing model; the need for unexpected significant capital expenditures; unexpected changes in commodity or component pricing that we are unable to pass on to our suppliers or customers; our inability to maintain efficiencies gained from our workforce optimization initiatives; and our failure to achieve and maintain expected cost savings from our multi-tier wage and benefit structure. Our inability to maintain our cost controls could adversely impact our operating margins.

***We will incur increased costs as a result of operating as a publicly traded company, and our management will be required to devote substantial time to new compliance initiatives.***

As a publicly traded company, we will incur additional legal, accounting and other expenses that we did not previously incur. Although we are currently unable to estimate these costs with any degree of certainty, they may be material in amount. In addition, the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act and the rules of the Securities and Exchange Commission, or the SEC, and the stock exchange on which our common stock is listed, have imposed various requirements on public companies. Our management and other personnel will need to devote a substantial amount of time to these compliance initiatives. Moreover, these rules and regulations will increase our legal and financial compliance costs and will make some activities more time-consuming and costly. For example, we expect these rules and regulations to make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to incur additional costs to maintain the same or similar coverage.

Furthermore, if we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, the market price of our common stock could decline and we could be subject to potential delisting by the stock exchange on which our common stock is listed and review by such exchange, the SEC, or other regulatory authorities, which would require the expenditure by us of additional financial and management resources. As a result, our stockholders could lose confidence in our financial reporting, which would harm our business and the market price of our common stock.

***General Motors' actions may materially affect our business and operating results.***

Although we are an independent company as a result of the Acquisition Transaction, General Motors' future actions may still have a material impact on our business and results of operations. Pursuant to the Cure Agreement resulting from General Motors' emergence from bankruptcy in 2009, General Motors has assumed certain agreements from its predecessor, including the Asset Purchase Agreement, intellectual property and software license agreements, lease agreements, engineering services agreements, an employee matters agreement and a hybrid co-branding agreement. General Motors' failure to comply with any portion of these agreements for any reason, including the indemnities therein, could inhibit us from operating and expanding our business in the future.

Additionally, General Motors has received a non-exclusive, royalty-free, worldwide license to use the "Allison Transmission" name and certain related trademarks on General Motors' line of A1000 transmission for use primarily in Class 2 and 3 pick up trucks. If General Motors, or any of its subsidiaries or affiliated entities, or any third party uses the trade name "Allison Transmission" in ways that adversely affect such trade name or trademark, our reputation could suffer damage, which in turn could have a material adverse effect on our business, results of operations and financial condition.

In connection with the Acquisition Transaction, we entered into a mutual non-compete agreement with General Motors that restricts General Motors from competing with us in non-military vehicles in North America with gross vehicle weights above 5900 kilograms (typically Class 4 and higher) with some limited exceptions for certain General Motors light-duty pickup truck and van platforms. It also restricts General Motors from competing with us in military vehicles globally and in non-military vehicles outside North America that exceed 3500 kilograms (generally Class 3 to Class 4 and higher) with some limited exceptions. The non-compete periods extend until 2017 globally, except in Europe, where they expire in 2012. Similarly, we are restricted from competing with General Motors in weight classes below the above mentioned thresholds for similar periods of time. Upon expiration of the non-competition periods, both Allison and General Motors will be permitted to compete with each other, but such expiration will generally not affect the parties' rights under the Patent and Technology License Agreement to use on an exclusive basis within their respective weight classes (subject to previously mentioned exceptions) the intellectual property that is licensed to Allison on an exclusive basis.

In addition, because of our current manufacturing services agreement with General Motors in Hungary that will remain in place until the completion of our plant in Hungary, which is expected to be completed in 2011, we may be materially adversely affected by the failure of General Motors to perform as expected. This non-performance may consist of delays or failures caused by production issues. The risk of non-performance may also result from the insolvency or bankruptcy of General Motors. General Motors' ability to provide personnel and technical resources to us is also subject to a number of risks, including destruction of our equipment or work stoppages. In addition, our failure to provide an adequate facility, or order sufficient quantities of inventory for General Motors, may increase the cost of production or may lead to General Motors refusing to provide resources to us at all. Our efforts to protect against and to minimize these risks may not always be effective.

***An impairment in the carrying value of goodwill or other indefinite-lived intangible assets could negatively affect our consolidated results of operations and net worth.***

Pursuant to GAAP, we are required to assess our goodwill and indefinite-lived intangible assets to determine if they are impaired on an annual basis, or more often if events or changes in circumstances indicate that impairment may have occurred. Intangible assets with finite lives are amortized over the useful life and are reviewed for impairment on triggering events such as events or changes in circumstances indicating that an impairment may have occurred. If the testing performed indicates that impairment has occurred, we are required to record a non-cash impairment charge for the difference between the carrying value of the goodwill and the implied fair value of the goodwill or the carrying value of the intangible assets and the fair value of the intangible assets in the period the determination is made. Disruptions to our business, end market conditions, protracted economic weakness and unexpected significant declines in operating results may result in charges for goodwill and other asset impairments.

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Our annual goodwill impairment test for the year ended December 31, 2010 resulted in no goodwill impairment. Although our analysis regarding the fair value of goodwill indicates that it exceeds its carrying value, materially different assumptions regarding the future performance of our business could result in goodwill impairment losses. We recorded trade name impairment charges of \$190.0 million and \$179.8 million in 2009 and 2008, respectively. The impairment charges were triggered principally by lower projected net sales as a result of general economic conditions in 2009 and 2008 and in 2008 an increase in the discount factor that was in effect on the measurement data. The effects of the impairments did not result in any other charges to goodwill, other intangible assets or long-lived assets. See “Notes to Consolidated Financial Statements.”

### ***Usage of our net operating losses may be subject to limitations in the future.***

As of December 31, 2010, we had \$383.1 million of net operating losses for U.S. federal income tax purposes. Although these net operating losses currently are subject to a valuation allowance, if we generate taxable income in the future, we may be able to utilize these net operating losses to offset future federal income tax liabilities. In addition, our future financial performance may diminish our tax savings more rapidly than we currently anticipate. To the extent possible, we will structure our operating activities to minimize our income tax liabilities. However, there can be no assurance we will be able to reduce it to a specified level. In addition, while this offering will not result in a change of control under Section 382 of the U.S. Internal Revenue Code of 1986, any subsequent accumulations of common stock ownership leading to a change of control under that section, including through sales of stock by large stockholders after this offering, all of which are out of our control, could limit our ability to utilize our net operating losses to offset future federal income tax liabilities.

### ***We are subject to risks from litigation that may materially impact our operations.***

We are subject to risks and costs, including potential negative publicity, associated with lawsuits, in particular, with respect to product liability, warranties and recalls, intellectual property, antitrust and environmental claims and lawsuits. The result of and costs associated with defending any such lawsuit may be material and could have a material adverse effect on our operations.

## **Risks Related to Our Indebtedness**

### ***Our substantial indebtedness could adversely affect our financial health, restrict our activities and affect our ability to meet our obligations.***

We have a significant amount of indebtedness. As of December 31, 2010, we had total indebtedness of \$3,671.1 million and we would have been able to borrow an additional \$400.0 million under the revolving portion of ATI’s Senior Secured Credit Facility, less \$10.2 million of offsetting outstanding letters of credit. As of December 31, 2010, ATI had no outstanding borrowings against the revolving credit facility. Of our total indebtedness at December 31, 2010, \$2,685.4 million consists of ATI’s Senior Secured Credit Facility due 2014; \$478.0 million consists of 11.00% Senior Cash Pay Notes due 2015, or the Senior Cash Pay Notes; \$505.3 million consists of 11.25% Senior Toggle Notes due 2015, or the Senior Toggle Notes, and collectively with the Senior Cash Pay Notes, the Senior Notes; and 200 million yen (approximately \$2.4 million) consists of Japanese Yen denominated unsecured short-term notes.

On September 14, 2008, Lehman Brothers Holdings, Inc., or Lehman, filed for bankruptcy. A subsidiary of Lehman was a participating lender under our revolving credit facility. This effectively reduced the available revolving credit facility from \$400.0 million to \$317.5 million. This commitment has not been assigned to or assumed by any party.

Our substantial indebtedness could have important consequences. For example, it could:

- make it more difficult for us to satisfy our obligations under our indebtedness;
- require us to elect to pay interest on the Senior Toggle Notes, in whole or in part, by issuing additional notes;

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- require us to further dedicate a substantial portion of our cash flow from operations to payments of principal and interest on our indebtedness, thereby reducing the availability of our cash flow to fund acquisitions, working capital, capital expenditures, research and development efforts and other general corporate purposes;
- increase our vulnerability to and limit our flexibility in planning for, or reacting to, downturns or changes in our business and the industry in which we operate;
- restrict us from making strategic acquisitions or cause us to make non-strategic divestitures;
- expose us to the risk of increased interest rates as borrowings under the Senior Secured Credit Facility are subject to variable rates of interest;
- place us at a competitive disadvantage compared to our competitors that have less debt; and
- limit our ability to borrow additional funds.

In addition, the Senior Secured Credit Facility contains a maximum total senior secured leverage ratio that becomes more restrictive over the term of the loan. The Senior Secured Credit Facility and the indentures governing the Senior Notes also contain other negative and affirmative covenants that will limit our ability to engage in activities that may be in our long-term best interests. Our failure to comply with any of the covenants could result in an event of default which, if not cured or waived, could result in the acceleration of all of our indebtedness.

***To service our indebtedness, we will require a significant amount of cash and our ability to generate cash depends on many factors beyond our control.***

Our ability to make cash payments on our indebtedness and to fund planned capital expenditures will depend on our ability to generate significant operating cash flow in the future. This, to a significant extent, is subject to general economic, financial, competitive, legislative, regulatory and other factors that are beyond our control.

We cannot assure you that our business will generate sufficient cash flow from operations or that future borrowings will be available to us under the Senior Secured Credit Facility in an amount sufficient to enable us to pay our indebtedness or to fund our other liquidity needs. In such circumstances, we may need to refinance all or a portion of our indebtedness on or before maturity. We cannot assure you that we will be able to refinance any of our indebtedness on commercially reasonable terms or at all. If we cannot service our indebtedness, we may have to take actions such as selling assets, seeking additional equity or reducing or delaying capital expenditures, strategic acquisitions, investments and alliances. We cannot assure you that any such actions, if necessary, could be effected on commercially reasonable terms or at all.

If we are unable to generate sufficient cash flow or are otherwise unable to obtain funds necessary to meet required payments of principal, premium, if any, and interest on our indebtedness, or if we otherwise fail to comply with the various covenants in the instruments governing our indebtedness, we could be in default under the terms of the agreements governing such indebtedness. In the event of such default, the holders of such indebtedness could elect to declare all the funds borrowed thereunder to be due and payable, together with accrued and unpaid interest, the lenders under the Senior Secured Credit Facility could elect to terminate their commitments thereunder, cease making further loans and institute foreclosure proceedings against our assets, and we could be forced into bankruptcy or liquidation. If our operating performance declines, we may in the future need to obtain waivers from the required lenders under the Senior Secured Credit Facility to avoid being in default. If we or any of our subsidiaries breach the covenants under the Senior Secured Credit Facility and seek a waiver, we may not be able to obtain a waiver from the required lenders. If this occurs, we would be in default under the Senior Secured Credit Facility, the lenders could exercise their rights, as described above, and we could be forced into bankruptcy or liquidation.

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***Despite current indebtedness levels, we and our subsidiaries may still be able to incur additional indebtedness, which could further exacerbate the risks associated with our substantial financial leverage.***

We and our subsidiaries may be able to incur additional indebtedness in the future because the terms of our indebtedness do not fully prohibit us or our subsidiaries from doing so. Subject to covenant compliance and certain conditions our indebtedness permits additional borrowing, including total borrowing up to \$400.0 million under the revolving portion of the Senior Secured Credit Facility as of December 31, 2010. If new debt is added to our current debt levels and our subsidiaries' current debt levels, the related risks that we and they now face could intensify.

### **Risks Related to this Offering and Ownership of our Common Stock**

***There is no existing market for our common stock, and we do not know if one will develop to provide you with adequate liquidity to sell our common stock at prices equal to or greater than the price you paid in this offering.***

Prior to this offering, there has not been a public market for our common stock. We cannot predict the extent to which investor interest in our company will lead to the development of an active trading market on the stock exchange on which we list our common stock or otherwise or how liquid that market might become. If an active trading market does not develop, you may have difficulty selling any of our common stock that you buy. The initial public offering price for the common stock will be determined by negotiations between us and the representatives of the underwriters and may not be indicative of prices that will prevail in the open market following this offering. Consequently, you may not be able to sell our common stock at prices equal to or greater than the price you paid in this offering, or at all.

***Allison Holdings is a holding company with no operations of its own, and it depends on its subsidiaries for cash to fund all of its operations and expenses, including to make future dividend payments, if any.***

The operations of Allison Holdings are conducted entirely through its subsidiaries and its ability to generate cash to meet its debt service obligations or to pay dividends is highly dependent on the earnings and the receipt of funds from its subsidiaries via dividends or intercompany loans. We do not currently expect to declare or pay dividends on our common stock for the foreseeable future; however, to the extent that we determine in the future to pay dividends on our common stock, none of our subsidiaries will be obligated to make funds available to us for the payment of dividends. Further, the Senior Secured Credit Facility and Senior Notes significantly restrict and any future indebtedness may restrict the ability of our subsidiaries to pay dividends or otherwise transfer assets to us. In addition, Delaware law may impose requirements that may restrict our ability to pay dividends to holders of our common stock.

***The price of our common stock may fluctuate significantly, and you could lose all or part of your investment.***

Volatility in the market price of our common stock may prevent you from being able to sell your common stock at or above the price you paid for your common stock. The market price of our common stock could fluctuate significantly for various reasons, including:

- our operating and financial performance and prospects;
- our quarterly or annual earnings or those of other companies in our industry;
- the public's reaction to our press releases, our other public announcements and our filings with the SEC;
- changes in, or failure to meet, earnings estimates or recommendations by research analysts who track our common stock or the stock of other companies in our industry;

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- the failure of research analysts to cover our common stock;
- strategic actions by us, our customers or our competitors, such as acquisitions or restructurings;
- new laws or regulations or new interpretations of existing laws or regulations applicable to our business;
- changes in accounting standards, policies, guidance, interpretations or principles;
- the impact on our profitability temporarily caused by the time lag between when we experience cost increases until these increases flow through cost of sales because of our method of accounting for inventory;
- material litigations or government investigations;
- changes in general conditions in the U.S. and global economies or financial markets, including those resulting from war, incidents of terrorism or responses to such events;
- changes in key personnel;
- sales of common stock by us or members of our management team;
- termination of lock-up agreements with our management team and principal stockholders;
- the granting or exercise of employee stock options;
- volume of trading in our common stock; and
- the realization of any risks described under “Risk Factors.”

In addition, in the past two years, the stock market has experienced significant price and volume fluctuations. This volatility has had a significant impact on the market price of securities issued by many companies, including companies in our industry. The changes frequently appear to occur without regard to the operating performance of the affected companies. Hence, the price of our common stock could fluctuate based upon factors that have little or nothing to do with our company, and these fluctuations could materially reduce our share price and cause you to lose all or part of your investment. Further, in the past, market fluctuations and price declines in a company’s stock have led to securities class action litigations. If such a suit were to arise, it could have a substantial cost and divert our resources regardless of the outcome.

***If we fail to maintain proper and effective internal controls, our ability to produce accurate and timely financial statements could be impaired and investors’ views of us could be harmed.***

The Sarbanes-Oxley Act requires, among other things, that we maintain effective internal control over financial reporting and disclosure controls and procedures. In particular, we must perform system and process evaluation and testing of our internal control over financial reporting to allow management and our independent registered public accounting firm to report on the effectiveness of our internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act, with auditor attestation of the effectiveness of our internal controls, beginning with our annual report on Form 10-K for the fiscal year ending December 31, 2012. If we are not able to comply with the requirements of Section 404 in a timely manner, or if we or our independent registered public accounting firm identify deficiencies in our internal control over financial reporting that are deemed to be material weaknesses, the market price of shares of common stock could decline and we could be subject to sanctions or investigations by the stock exchange on which we list our common stock, the SEC or other regulatory authorities, which would require additional financial and management resources.

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Our ability to successfully implement our business plan and comply with Section 404 requires us to be able to prepare timely and accurate financial statements. Any delay in the implementation of, or disruption in the transition to, new or enhanced systems, procedures or controls, may cause our operations to suffer and we may be unable to conclude that our internal control over financial reporting is effective and to obtain an unqualified report on internal controls from our auditors as required under Section 404 of the Sarbanes-Oxley Act. Moreover, we cannot be certain that these measures would ensure that we implement and maintain adequate controls over our financial processes and reporting in the future. Even if we were to conclude, and our auditors were to concur, that our internal control over financial reporting provided reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, because of its inherent limitations, internal control over financial reporting may not prevent or detect fraud or misstatements. This, in turn, could have an adverse impact on trading prices for our shares of common stock, and could adversely affect our ability to access the capital markets.

***We are controlled by Carlyle and Onex, whose interests in our business may be different than yours.***

As of March 1, 2011, Carlyle and Onex each owned 49.8% of our common stock and are able to control our affairs in all cases. Following this offering, Carlyle and Onex will each continue to own approximately % of our equity (or % if the underwriters exercise their overallotment option in full). Pursuant to an amended and restated stockholders agreement, our entire Board of Directors has been designated by Carlyle and Onex and a majority of the Board of Directors is affiliated with Carlyle and Onex. See “Certain Relationships and Related Party Transactions.” As a result, Carlyle and Onex or their nominees to the Board of Directors have the ability to control the appointment of our management, the entering into of mergers, sales of substantially all of our assets and other extraordinary transactions and influence amendments to our certificate of incorporation. So long as Carlyle and Onex continue to own a majority of our common stock, they will have the ability to control the vote in any election of directors and will have the ability to prevent any transaction that requires stockholder approval regardless of whether others believe the transaction is in our best interests. The interests of Carlyle and Onex could conflict with yours. In addition, Carlyle and Onex may in the future own businesses that directly compete with ours.

***If securities analysts do not publish research or reports about our business or if they downgrade our stock, the price of our stock could decline.***

The research and reports that industry or financial analysts publish about us or our business may vary widely and may not predict accurate results, but will likely have an effect on the trading price of our common stock. If an industry analyst decides not to cover our company, or if an industry analyst decides to cease covering our company at some point in the future, we could lose visibility in the market, which in turn could cause our stock price to decline. We may be subject to greater risk of losing analyst coverage as a result of the size of this offering and the relative number of shares which will be available for trading in the public market. If an industry analyst downgrades our stock, our stock price would likely decline rapidly in response.

***We have no plans to pay regular dividends on our common stock, so you may not receive funds without selling your common stock.***

We have no plans to pay regular dividends on our common stock. We generally intend to invest our future earnings, if any, to fund our growth. Any payment of future dividends will be at the discretion of our Board of Directors and will depend on, among other things, our earnings, financial condition, capital requirements, level of indebtedness, statutory and contractual restrictions applying to the payment of dividends and other considerations that our Board of Directors deems relevant. The Senior Secured Credit Facility and the indentures governing the Senior Notes also effectively limit our ability to pay dividends. Accordingly, you may have to sell some or all of your common stock after price appreciation in order to generate cash flow from your investment. You may not receive a gain on your investment when you sell your common stock and you may lose the entire amount of the investment.

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***Our management will have broad discretion over the use of the net proceeds from this offering and might not apply the proceeds of this offering in ways that increase the value of your investment.***

Our management will have broad discretion over the use of the net proceeds from this offering. We expect to use the net proceeds from this offering to repay indebtedness and for general corporate purposes. We may fail to use these funds effectively to yield a significant return, or any return, on any investment of these net proceeds and we cannot assure you the proceeds will be used in a manner of which you would approve.

***You will suffer immediate and substantial dilution.***

The initial public offering price per share of our common stock is substantially higher than our net tangible book value per common share immediately after the offering. As a result, you will pay a price per share that substantially exceeds the book value of our assets after subtracting our liabilities. At an offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, you will incur immediate and substantial dilution in the amount of \$ \_\_\_\_\_ per share. We also had \_\_\_\_\_ shares of common stock issuable upon the exercise of options outstanding as of \_\_\_\_\_ at a weighted average exercise price of \$ \_\_\_\_\_ per share. To the extent these options are exercised, there will be further dilution. See “Dilution.”

***Provisions of our amended and restated certificate of incorporation and amended and restated bylaws and Delaware law might discourage, delay or prevent a change of control of our company or changes in our management and, as a result, depress the trading price of our common stock.***

Following this offering, we anticipate our amended and restated certificate of incorporation and amended and restated bylaws will contain provisions that could discourage, delay or prevent a change in control of our company or changes in our management that the stockholders of our company may deem advantageous. These provisions will:

- authorize the issuance of blank check preferred stock that our Board of Directors could issue to increase the number of outstanding shares and to discourage a takeover attempt;
- limit the ability of stockholders to remove directors if a “group,” as defined under Section 13(d)(3) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, ceases to own more than 50% of our common stock;
- prohibit our stockholders from calling a special meeting of stockholders;
- prohibit stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of our stockholders, if a “group” ceases to own more than 50% of our common stock;
- provide that the Board of Directors is expressly authorized to adopt, or to alter or repeal our bylaws; and
- establish advance notice requirements for nominations for election to our Board of Directors or for proposing matters that can be acted upon by stockholders at stockholder meetings.

In addition, we expect to opt out of Section 203 of the General Corporation Law of the State of Delaware, or the DGCL, which, subject to some exceptions, prohibits business combinations between a Delaware corporation and an interested stockholder, which is generally defined as a stockholder who becomes a beneficial owner of 15% or more of a Delaware corporation’s voting stock for a three-year period following the date that the stockholder became an interested stockholder. See “Description of Capital Stock.”

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These anti-takeover defenses could discourage, delay or prevent a transaction involving a change in control of our company. These provisions could also discourage proxy contests and make it more difficult for you and other stockholders to elect directors of your choosing and cause us to take corporate actions other than those you desire.

***Future sales of our common stock in the public market could lower our share price, and any additional capital raised by us through the sale of equity or convertible debt securities may dilute your ownership in us and may adversely affect the market price of our common stock.***

We and substantially all of our stockholders may sell additional shares of common stock in subsequent public offerings. We may also issue additional shares of common stock or convertible debt securities to finance future acquisitions. After the consummation of this offering, we will have \_\_\_\_\_ shares of common stock authorized and \_\_\_\_\_ shares of common stock outstanding. This number includes \_\_\_\_\_ shares that we are selling in this offering, which may be resold immediately in the public market. Of the remaining shares, \_\_\_\_\_, or \_\_\_\_\_ % of our total outstanding shares, are restricted from immediate resale under the lock-up agreements between our current stockholders and the underwriters described in “Underwriting,” but may be sold into the market in the near future. These shares will become available for sale following the expiration of the lock-up agreements, which, without the prior consent of the representatives of the underwriters, is 180 days after the date of this prospectus, subject to compliance with the applicable requirements under Rule 144 of the Securities Act of 1933, or the Securities Act.

We cannot predict the size of future issuances of our common stock or the effect, if any, that future issuances and sales of our common stock will have on the market price of our common stock. Sales of substantial amounts of our common stock (including sales pursuant to Carlyle and Onex’s registration rights and shares issued in connection with an acquisition), or the perception that such sales could occur, may adversely affect prevailing market prices for our common stock. See “Certain Relationships and Related Party Transactions” and “Shares Eligible for Future Sale.”

***We are a “controlled company” within the meaning of the rules of the stock exchange on which we list our common stock and, as a result, expect to qualify for, and intend to rely on, exemptions from certain corporate governance requirements. You will not have the same protections afforded to stockholders of companies that are subject to such requirements.***

Following the consummation of this offering, we expect Carlyle and Onex will continue to control a majority of the voting power of our outstanding common stock. As a result, we expect to be a “controlled company” within the meaning of the corporate governance standards of the stock exchange on which we list our common stock. Under these rules, a company of which more than 50% of the voting power is held by an individual, group or another company is a “controlled company” and may elect not to comply with certain corporate governance requirements, including:

- the requirement that a majority of the Board of Directors consist of independent directors;
- the requirement that we have a nominating and corporate governance committee that is composed entirely of independent directors with a written charter addressing the committee’s purpose and responsibilities;
- the requirement that we have a compensation committee that is composed entirely of independent directors with a written charter addressing the committee’s purpose and responsibilities; and
- the requirement for an annual performance evaluation of the nominating and corporate governance committee and compensation committee.

Following this offering, we intend to utilize these exemptions, if we continue to qualify as a “controlled company.” If we do utilize the exemption, we will not have a majority of independent directors and our nominating and corporate governance and compensation committees will not consist entirely of independent directors and such committees will not be subject to annual performance evaluations. Accordingly, you will not have the same protections afforded to stockholders of companies that are subject to all of the corporate governance requirements of the stock exchange on which we list our common stock.

## FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements. All statements other than statements of historical fact included in this prospectus are forward-looking statements. The words “believe,” “expect,” “anticipate,” “intend,” “estimate” and other expressions that are predictions of or indicate future events and trends and that do not relate to historical matters identify forward-looking statements. You should not place undue reliance on these forward-looking statements. Although forward-looking statements reflect management’s good faith beliefs, reliance should not be placed on forward-looking statements because they involve known and unknown risks, uncertainties and other factors, which may cause the actual results, performance or achievements to differ materially from anticipated future results, performance or achievements expressed or implied by such forward-looking statements. Forward-looking statements speak only as of the date the statements are made. We undertake no obligation to publicly update or revise any forward-looking statement, whether as a result of new information, future events, changed circumstances or otherwise. These forward-looking statements are subject to numerous risks and uncertainties, including, but not limited to:

- our participation in markets that are competitive;
- general economic and industry conditions;
- our ability to prepare for and respond to technological and market developments and changing customer needs;
- risk of failure of technological advances to occur at the expected pace or made redundant by alternative technologies;
- the discovery of defects in our products;
- the concentration of our net sales in our top five customers and the loss of any one of these;
- risks associated with our international operations;
- environmental risks;
- brand and reputational risks;
- labor strikes, work stoppages or similar labor disputes;
- our ability to maintain cost controls;
- risks related to our substantial indebtedness;
- Carlyle and Onex will be able to control our common stock; and
- other risks and uncertainties, including those listed under the caption “Risk Factors.”

We derive many of our forward-looking statements from our operating budgets and forecasts, which are based upon many detailed assumptions, including industry data referenced elsewhere in this prospectus. While we believe our assumptions are reasonable, we caution that it is very difficult to predict the impact of known factors, and it is impossible for us to anticipate all factors that could affect our actual results. Important factors that could cause actual results to differ materially from our expectations are disclosed under “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in this prospectus. All written and oral forward-looking statements attributable to us, or persons acting on our behalf, are expressly qualified in their entirety by the cautionary statements as well as other cautionary statements that are made from time to time in our other SEC filings or public communications. You should evaluate all forward-looking statements made in this prospectus in the context of these risks and uncertainties.

We caution you that the important factors referenced above may not contain all of the factors that are important to you. In addition, we cannot assure you that we will realize the results or developments we expect or anticipate or, even if substantially realized, that they will result in the consequences we anticipate or affect us or our operations in the way we expect.

## USE OF PROCEEDS

We estimate the net proceeds to us from this offering will be approximately \$ \_\_\_\_\_ million, based on an assumed public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus and after deducting underwriting discounts and commissions and estimated offering expenses payable by us. If the underwriters' over-allotment option is exercised in full, we estimate we will receive additional net proceeds of approximately \$ \_\_\_\_\_ million.

We intend to use the net proceeds from this offering to repay indebtedness and for general corporate purposes.

Each \$1.00 increase (decrease) in the assumed public offering price would increase (decrease) the net proceeds to us by approximately \$ \_\_\_\_\_ million, after deducting underwriting discounts and commissions and estimated offering expenses payable by us, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same. Each increase (decrease) of 1.0 million in the number of shares offered by us would increase (decrease) the net proceeds to us by approximately \$ \_\_\_\_\_ million, after deducting underwriting discounts and commissions and estimated offering expenses payable by us, assuming the assumed public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus.

## **DIVIDEND POLICY**

We have not paid dividends in the past and we do not intend to pay any cash dividends for the foreseeable future. We intend to retain earnings, if any, for the future operation and expansion of our business and the repayment of debt. Any determination to pay dividends in the future will be at the discretion of our Board of Directors and will depend upon our results of operations, cash requirements, financial condition, contractual restrictions, restrictions imposed by the Senior Secured Credit Facility and the indentures governing the Senior Notes or applicable laws and other factors that our Board of Directors may deem relevant. Our existing indebtedness effectively limits our ability to pay dividends and make distributions to our stockholders. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

## CAPITALIZATION

The following table sets forth our consolidated cash and cash equivalents and capitalization as of December 31, 2010 on an actual basis and as adjusted basis giving effect to (i) the issuance of common stock in this offering and the application of the net proceeds therefrom as described in “Use of Proceeds,” based upon an assumed initial offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, (ii) our amended and restated certificate of incorporation that will, prior to the effectiveness of the registration statement of which this prospectus forms a part, provided that our authorized capital stock consist of \_\_\_\_\_ shares of common stock, \$0.01 par value per share, \_\_\_\_\_ shares of our non-voting common stock, \$0.01 par value per share, and \_\_\_\_\_ shares of preferred stock, \$0.01 par value per share, and (iii) the conversion of \_\_\_\_\_ shares of non-voting common stock held by current employees to common stock concurrent with the consummation of this offering.

The information in this table should be read in conjunction with “Use of Proceeds,” “Selected Consolidated Financial Data,” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our financial statements and related notes thereto included elsewhere in this prospectus.

	December 31, 2010	
	Actual	As Adjusted (1) (unaudited)
	(dollars in millions, except share data)	
Cash and cash equivalents	\$ 252.2	\$ _____
Long-term debt, less current portion:		
Senior Secured Credit Facility	\$2,654.4	\$ _____
Senior Notes	983.3	_____
Total long-term debt, less current portion	3,637.7	_____
Total stockholders’ equity:		
Common stock, \$0.01 par value per share: 180,000,000 shares authorized; 149,500,000 shares issued and outstanding, actual; _____ shares authorized, _____ shares issued and outstanding, as adjusted	1.5	_____
Non-voting common stock, \$0.01 par value per share: 20,000,000 shares authorized; 3,579,740 shares issued and 3,559,740 shares outstanding, actual; _____ shares authorized, _____ shares issued and outstanding, as adjusted	—	_____
Preferred stock, \$0.01 par value per share: 20,000,000 shares authorized, no shares issued and outstanding, actual; _____ shares authorized, no shares issued and outstanding, as adjusted	—	—
Treasury stock	(0.2)	—
Additional paid-in capital	1,553.1	_____
Accumulated other comprehensive income	(26.0)	_____
Accumulated deficit	(786.7)	_____
Total stockholders’ equity	741.7	_____
Total capitalization	\$4,379.4	\$ _____

- (1) As adjusted to reflect the issuance of common stock in this offering and the application of the net proceeds therefrom as described in “Use of Proceeds,” assuming an initial offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting underwriting discounts and commissions and estimated offering expenses payable by us. Each \$1.00 increase (decrease) in the assumed public offering price would increase (decrease) the net proceeds to us by approximately \$ \_\_\_\_\_ million, after deducting underwriting discounts and commissions and estimated offering expenses payable by us, assuming the number of shares offered by us, as set forth on the

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cover page of this prospectus, remains the same. Each increase (decrease) of 1.0 million in the number of shares offered by us would increase (decrease) the net proceeds to us by approximately \$ \_\_\_\_\_ million, after deducting underwriting discounts and commissions and estimated offering expenses payable by us, assuming the assumed public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, remains the same. The as adjusted information discussed above is illustrative only and will be adjusted based on the actual public offering price and terms of this offering determined at pricing.

The table set forth above is based on the number of shares of our common stock outstanding as of \_\_\_\_\_. The table does not reflect:

- \_\_\_\_\_ shares of common stock issuable upon the exercise of options outstanding as of \_\_\_\_\_ at a weighted average exercise price of \$ \_\_\_\_\_ per share;
- \_\_\_\_\_ shares of common stock reserved for issuance under our 2011 Equity Incentive Award Plan, which we plan to adopt in connection with this offering;
- no exercise of the overallotment option by the underwriters; and
- the \_\_\_\_\_ for \_\_\_\_\_ stock split described in this prospectus.

## DILUTION

If you invest in our common stock, your interest will be diluted to the extent of the difference between the initial public offering price per share and the net tangible book value per share after this offering.

As of December 31, 2010, we had net tangible book value of approximately \$ \_\_\_\_\_ million, or \$ \_\_\_\_\_ per share. Net tangible book value per share represents total tangible assets less total liabilities and noncontrolling interests divided by the number of shares of common stock outstanding. After giving effect to the issuance and sale of \_\_\_\_\_ shares of common stock in this offering at an assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting underwriting discounts and commissions and estimated offering expenses payable by us, our net tangible book value as of December 31, 2010 would have been approximately \$ \_\_\_\_\_ million, or \$ \_\_\_\_\_ per share. This represents an immediate increase in net tangible book value of \$ \_\_\_\_\_ per share to existing stockholders and an immediate dilution of \$ \_\_\_\_\_ per share to new investors purchasing common stock in this offering. The following table illustrates this dilution on a per share basis:

	Per Share
Assumed initial public offering price per share	\$ _____
Net tangible book value per share as of December 31, 2010	\$ _____
Increase in net tangible book value per share attributable to this offering	\$ _____
Net tangible book value per share after this offering	\$ _____
Dilution per share to new investors	\$ _____

Each \$1.00 increase (decrease) in the assumed initial offering price would increase (decrease) our net tangible book value after this offering by approximately \$ \_\_\_\_\_ million, the net tangible book value per share after this offering by \$ \_\_\_\_\_ per share, and the dilution per common share to new investors by \$ \_\_\_\_\_ per share, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting underwriting discounts and commissions and estimated offering expenses payable by us. An increase (decrease) of 1.0 million in the number of shares offered by us would increase (decrease) our net tangible book value after this offering by approximately \$ \_\_\_\_\_ million, the net tangible book value per share after this offering by \$ \_\_\_\_\_ per share, and the dilution per common share to new investors by \$ \_\_\_\_\_ per share, assuming the public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, remains the same and after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

The following table sets forth, as of December 31, 2010, the total number of shares of common stock owned by existing stockholders and to be owned by new investors, the total consideration paid, and the average price per share paid by our existing stockholders and to be paid by new investors purchasing shares of common stock in this offering. The calculation below is based on an assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, before deducting the underwriting discounts and commissions and estimated offering expenses payable by us.

	Shares Purchased		Total Consideration		Average Price Per Share
	Number	Percent	Amount	Percent	
(In thousands, other than shares and percentages)					
Existing stockholders	_____	%	\$ _____	%	\$ _____
New investors	_____	%	\$ _____	%	\$ _____
Total	_____	%	\$ _____	%	\$ _____

A \$1.00 increase (decrease) in the assumed initial offering price would increase (decrease) total consideration paid by new investors, total consideration paid by all stockholders and average price per share paid by all stockholders by \$ \_\_\_\_\_ million, \$ \_\_\_\_\_ million and \$ \_\_\_\_\_ per share, respectively. An increase (decrease) of 1.0 million in the number of shares offered by us would increase (decrease) total consideration paid

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by new investors, total consideration paid by all stockholders and average price per share paid by all stockholders by \$            million, \$            million and \$            per share, respectively.

If the underwriters exercise in full their option to purchase additional shares of our common stock in the offering, the as adjusted net tangible book value per share would be \$            per share and the dilution to new investors in this offering would be \$            per share.

The tables and calculations above assume no exercise of outstanding options. As of            , there were            shares of common stock issuable upon exercise of outstanding options at a weighted average exercise price of approximately \$            per share. To the extent that the            outstanding options are exercised, there will be further dilution to new investors purchasing common stock in the offering. See “Description of Capital Stock.”

## SELECTED CONSOLIDATED FINANCIAL DATA

The following table sets forth certain financial information for the five years ended December 31, 2010. The following table should be read in conjunction with the information contained in our audited consolidated financial statements and the notes thereto included in this prospectus. The consolidated financial statements of the Successor as of December 31, 2010, 2009, 2008 and 2007 and for the years ended December 31, 2010, 2009 and 2008, and the period from August 7, 2007 to December 31, 2007 have been prepared in accordance with GAAP. The combined financial statements of the Predecessor for the period from January 1, 2007 to August 6, 2007 and for the year ended December 31, 2006, herein present the combined operations of the Predecessor as a formerly wholly-owned business of General Motors. The historical results of operations set forth below and elsewhere may not necessarily reflect what would have occurred if the Predecessor had been a separate, stand-alone entity during the periods presented. While the results of the Successor and Predecessor are prepared on a different basis of presentation, management does believe the combined periods are meaningful for comparability.

	Successor				Predecessor	
	Dec. 31, 2010	Dec. 31, 2009	Dec. 31, 2008	Aug. 7 to Dec. 31, 2007	Jan. 1 to Aug. 6, 2007	Dec. 31, 2006
<i>(in millions, except for share and per share data)</i>						
<b>Consolidated Statement of Operations:</b>						
Net sales	\$ 1,926.3	\$ 1,766.7	\$ 2,061.4	\$ 841.1	\$ 1,333.2	\$ 2,374.5
Gross profit	828.2	619.8	735.9	254.9	546.2	835.5
Operating expenses:						
Selling, general and administrative expenses	384.9	391.2	412.6	171.1	172.2	221.1
Engineering — research and development	101.5	89.7	88.6	30.0	46.1	66.0
Trade name impairment	—	190.0	179.8	—	—	—
Total operating expenses	486.4	670.9	681.0	201.1	218.3	287.1
Operating income (loss)	341.8	(51.1)	54.9	53.8	327.9	548.4
Other income (expense), net:						
Interest income	3.5	1.4	5.1	3.1	1.7	2.5
Interest expense	(281.0)	(235.6)	(391.0)	(190.6)	(1.0)	(1.4)
Other income, net	19.0	2.8	40.0	0.6	(4.0)	—
Total other income (expense), net	(258.5)	(231.4)	(345.9)	(186.9)	(3.3)	1.1
Income (loss) before income taxes	83.3	(282.5)	(291.0)	(133.1)	324.6	549.4
Income tax expense	(53.7)	(41.4)	(37.1)	(31.2)	(118.8)	(202.7)
Net income (loss)	\$ 29.6	\$ (323.9)	\$ (328.1)	\$ (164.3)	\$ 205.8	\$ 346.7
<b>Earning (Loss) Per Share Data:</b>						
Basic and diluted earnings (loss) per share	\$ 0.19	\$ (2.12)	\$ (2.14)	\$ (1.08)	N/A	N/A
Weighted-average shares outstanding (in thousands)	153,053	153,015	153,121	152,759	N/A	N/A
<b>Consolidated Balance Sheet Data:</b>						
Cash and cash equivalents	\$ 252.2	\$ 153.1	\$ 237.9	\$ 231.1	\$ 8.0	\$ 8.7
Total assets	5,310.4	5,410.8	5,977.8	6,411.1	728.6	741.9
Total debt	3,671.1	3,874.1	3,991.3	4,201.2	7.3	11.8
Stockholders' equity	741.7	736.6	1,015.5	1,372.6	191.0	211.5

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

*The following discussion contains forward-looking statements that involve risks and uncertainties. Our actual results may differ materially from those discussed in the forward looking statements as a result of various factors, including, without limitation, those set forth in "Risk Factors," "Forward-Looking Statements" and other matters included elsewhere in this prospectus. The following discussion of our financial condition and results of operations should be read in conjunction with our financial statements and the notes thereto included elsewhere in this prospectus, as well as the information presented under "Selected Consolidated Financial Data."*

### Overview

We design and manufacture fully-automatic transmissions for medium- and heavy-duty commercial vehicles, medium- and heavy-tactical U.S. military vehicles and hybrid-propulsion systems for transit buses. We generate our net sales primarily from the sale of transmissions, transmission parts, support equipment, military kits, engineering services and extended transmission warranty coverage to a wide array of OEMs, distributors and the U.S. government. Although approximately 82% percent of our net sales were generated in North America in 2010, we have a global presence, serving customers in Europe, Asia, South America and Africa. As of December 31, 2010, we have approximately 2,750 employees and 12 different transmission product lines. We serve customers through an established network of approximately 1,500 authorized independent distributors and dealers worldwide. Since the introduction of our first fully-automatic transmission over 60 years ago, our products have gained acceptance in a variety of applications, including on-highway trucks (distribution, refuse, construction, fire and emergency), buses (primarily school and transit), motorhomes, off-highway vehicles and equipment (primarily energy and mining) and military vehicles (wheeled and tracked).

Allison Transmission, which is headquartered in Speedway, Indiana, was founded in 1915 and acquired by our Sponsors in August 2007 from General Motors Corporation. The Acquisition Transaction was structured as an asset purchase for U.S. federal income tax purposes, which resulted in a step-up in the U.S. federal income tax basis of our assets that allows us to take substantial amortization deductions for U.S. federal income tax purposes. As of December 31, 2010, we had \$3.6 billion of unamortized intangible assets which may be amortized over a period of approximately 11.6 years. These assets are expected to generate U.S. federal income tax deductions of approximately \$313 million annually through 2021 and approximately \$183 million in 2022. If we generate taxable income in the future, the amortization of these assets, together with existing U.S. net operating losses of \$383.1 million as of December 31, 2010, will be used to reduce our U.S. federal cash income tax payments.

### *Trends impacting our business*

Our net sales are driven by commercial vehicle production, which tends to be highly correlated to macroeconomic conditions. The recent global economic downturn led to a significant decline in annual commercial vehicle production volumes in North America and Western Europe. According to ACT Research, commercial truck and bus production volumes in our North American on-highway markets are projected to grow, but to remain below the 1998-2008 average production levels through 2013. According to J. D. Power and Associates, commercial vehicle production volumes in Western Europe are also projected to grow over the same period. However, we believe the anticipated increase in global commercial vehicle production, together with pent up demand that resulted from the deferral of purchases during the economic downturn as well as the trend toward automaticity, will support our continued growth and result in increased net sales.

Sales in our core North American on-highway market represented 31% of our total sales in 2010. Our core North American on-highway market for fully-automatic transmissions includes the Class 4-5, Class 6-7 and Class 8 straight trucks, buses (school, conventional transit, shuttle and coach) and motorhomes, with 66% of our sales in this market being derived from vehicles in the Class 6-7 truck and Class 8 straight truck markets. We have minimal exposure to the more cyclical Class 8 tractor market. The North American commercial vehicle market has adopted automatic transmissions at a faster rate than the rest of the world which is still dominated by

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manual transmissions. According to our estimates, fully-automatic transmissions account for less than 10% of the global medium- and heavy-duty commercial vehicle transmission market. We expect adoption of fully-automatic transmissions will increase outside of North America. As it does, we will increase our net sales into these markets and these markets will constitute a greater percentage of our annual net sales in the future.

The off-highway transmission end market is composed primarily of energy, mining and heavy construction vehicles. The energy and mining industries have seen growth in the last year, driven primarily by the global economic recovery, resurgence in commodity prices and innovations in extraction techniques. These factors have led to strong demand for vehicles and capital equipment utilizing our off-highway transmissions to support these activities. We expect this trend of increasing net sales to continue as long as energy and commodity prices continue to rise or remain near the current elevated levels.

The military market we serve consists of medium- and heavy-tactical wheeled and tracked vehicles. We are the primary supplier of fully-automatic transmissions for these types of vehicles to the U.S. military, with which we have had a long-standing relationship, dating back to 1945, when we developed our first-generation tank transmission. While demand for wheeled vehicles has been increasing over the past 10 years due to increased military activity, including the wars in Iraq and Afghanistan, we expect future defense budgets to grow at a significantly slower pace and vehicle expenditures to decline in coming years, resulting in a corresponding decrease in demand for our military products. As a result, we expect military sales will constitute a smaller percentage of our net sales in the future.

The global focus on conserving fuel and reducing greenhouse gas emissions is driving a rapidly evolving demand for alternative propulsion systems, technologies and products in commercial vehicles. Since 2006, we have seen growth in the business of hybrid-propulsion systems and have become the leading provider of hybrid-propulsion systems for transit buses. As a result of our leadership in the hybrid transit bus market and our well-established commercial vehicle OEM and end-user relationships, we believe we are well positioned to play a leading role as hybrid-propulsion system acceptance gains momentum in other vocations, especially in various medium- and heavy-duty truck markets.

The aftermarket is composed of the traditional aftermarket and support equipment. Traditional aftermarket products include branded replacement parts, remanufactured transmissions and the military transmission rebuild kits for tracked vehicles. Support equipment includes parts purchased by OEMs to install new transmission units and is dependent on new unit sales. Sales of aftermarket parts are tied to the growth in the overall population of vehicles with Allison transmissions, partially offset by improvements in product quality and durability. The aftermarket continues to be less volatile than the market for new product sales.

### **Key Components of our Results of Operations**

#### ***Net sales***

We generate our net sales primarily from the sale of transmissions, transmission parts, support equipment, military kits, engineering services and extended transmission coverage, or ETC, to a wide array of OEMs, distributors and the U.S. government. Sales are recorded net of provisions for customer allowances and other rebates. Engineering services are recorded as net sales in accordance with the terms of the contract. The associated costs are recorded in cost of sales. We also have royalty agreements with third parties that provide net sales as a result of joint efforts in developing marketable products.

#### ***Cost of sales***

Our most significant components of cost of sales are purchased parts, the overhead expense related to our manufacturing operations and direct labor associated with the manufacture and assembly of transmissions and parts. For the year ended December 31, 2010, direct material costs were approximately 66%, overhead costs were approximately 27%, and direct labor costs were approximately 7% of total cost of sales. We are subject to

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changes in our cost of sales caused by movements in underlying commodity prices. We seek to hedge against this risk by using forward contracts and, beginning in 2011, long-term sales agreements. See “—Quantitative and Qualitative Disclosure about Market Risk—Commodity Price Risk.”

### ***Selling, general and administrative expenses***

The principal components of our selling, general and administrative expenses are salaries and benefits for our office personnel, advertising and promotional expenses, warranty expense, expenses relating to certain information technology systems and amortization of our intangibles.

### ***Engineering — research and development***

We incur costs in connection with research and development programs that are expected to contribute to future earnings. Such costs are expensed as incurred. In 2009, we were notified by the DOE that we were selected to receive matching funds from a cost-share grant program funded by the American Recovery and Reinvestment Act for the development of hybrid-propulsion system manufacturing capacity in the U.S., which we refer to as the Grant Program. All applicable costs associated with the Grant Program have been charged to engineering — research and development, or in the case of capital expenditure, as a reduction in the cost basis of the capital asset. The U.S. government’s matching reimbursement is recorded to other income, net in the Consolidated Statement of Operations.

## **Critical Accounting Policies and Significant Accounting Estimates**

The preparation of the consolidated financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the reported amounts of some assets and liabilities and, in some instances, the reported amounts of net sales and expenses during the applicable reporting period. Differences between actual amounts and estimates are recorded in the period identified. Management believes the accounting estimates discussed below represent those accounting estimates that require the exercise of judgment where a different set of judgments could result in changes to our reported results.

### ***Revenue recognition***

We record sales when title has transferred to the customer, there is evidence of an agreement, the sales price is fixed and determinable, and the collection of the related accounts receivable is reasonably assured. We sell ETC for which sales are deferred. ETC sales are recognized ratably over the period of the ETC, which typically ranges from three to five years. Distributor and customer sales incentives, consisting of allowances and other rebates, are estimated at the time of sale based upon our history and experience and are recorded as a reduction to net sales. Incentive programs are generally product specific or region specific. Some factors used in estimating the cost of incentives include the number of transmissions that will be affected by the incentive program and rate of acceptance of any incentive program. If the actual number of affected transmissions differs from this estimate, or if a different mix of incentives is actually paid, the impact on net sales would be recorded in the period that the change was identified.

Sales under U.S. government production contracts are recorded when the product is accepted and title has transferred to the U.S. government. Under the terms of the U.S. government contracts, there are certain price reduction clauses and provisions for potential price reductions which are estimated at the time of sale based upon our history and experience and are recorded as a reduction to net sales. Potential reductions may be attributed to a change in projected sales volumes or plant efficiencies which impact overall costs.

### ***Inventory***

We value our inventory using the first-in, first-out method, and state our inventories at the lower of cost or net realizable value. In order to determine net realizable value, we analyze our inventory on a periodic basis to determine whether it is excess or obsolete inventory. Any decline in carrying value of estimated excess or obsolete inventory is recorded as a reduction of inventory and as an expense included in cost of sales in the period it is identified.

### ***Impairment of goodwill and other intangibles***

Goodwill represents the excess of purchase price paid over the fair value of net assets acquired. In accordance with the Financial Accounting Standards Board, or FASB, authoritative accounting guidance on goodwill, we do not amortize goodwill but rather evaluate it for impairment on an annual basis, or more often if events or circumstances change that could cause goodwill to become impaired. We have elected to perform our annual impairment test on October 31 of every year. A two-step impairment test is performed on goodwill. In the first step, we compare the fair value of our reporting unit to its carrying value. We have one reporting unit which is consistent with our one operating and reportable segment. If the fair value of the reporting unit exceeds the carrying value of the net assets assigned to that unit, goodwill is not considered impaired and we are not required to perform further testing. If the carrying value of the net assets assigned to the reporting unit exceeds the fair value of the reporting unit, then we must perform the second step of the impairment test in order to determine the implied fair value of the reporting unit's goodwill. If the carrying value of a reporting unit's goodwill exceeds its implied fair value, then we would record an impairment loss equal to the difference.

In the second quarter of 2009, we recorded a trade name impairment charge of \$190.0 million. The impairment charge was triggered by lower projected net sales as a result of weak general economic conditions at that time. In the fourth quarter of 2008 in conjunction with our annual assessment, we recorded a trade name impairment charge of \$179.8 million. The impairment was driven principally by an increase in the discount factor that was in effect on the measurement date and lower projected net sales as a result of general economic conditions.

The result of the 2010 annual impairment test indicated that the fair value of goodwill exceeded its carrying, or book value, and therefore the recorded goodwill was not subject to impairment. The fair value was determined utilizing the expected present value of future cash flows. Determining the fair value of a reporting unit involves the use of significant estimates and assumptions. These estimates and assumptions include net sales growth rates and operating margins used to calculate projected future cash flows, risk-adjusted discount rates, future economic and market conditions and determination of appropriate market comparables. We base our fair value estimates on assumptions we believe to be reasonable but that are unpredictable and inherently uncertain. Actual future results may differ from those estimates.

Other intangible assets have both indefinite and finite useful lives. Intangible assets with indefinite useful lives, such as our trade name, are not amortized but are tested annually for impairment. The result of 2010's annual impairment test indicated that the fair value of our trade name exceeded its carrying, or book value and therefore the recorded trade name was not subject to impairment. The fair value was determined utilizing an income approach by which the relief from royalty method (method under which an estimated value of the trade name is determined by the cost savings we achieve by not having to license the trade name) was applied. Intangible assets with finite lives are amortized over their estimated useful lives and reviewed for impairment when circumstances change that would create a triggering event. Customer relationships are amortized over the life in which expected benefits are to be consumed. The remaining finite useful life other intangibles are amortized on a straight-line basis over their useful lives. We evaluate the remaining useful life of other intangible assets on a periodic basis to determine whether events or circumstances warrant a revision to the remaining useful life. Assumptions and estimates about future values and remaining useful lives of our intangible and other long-lived assets are complex and subjective. They can be affected by a variety of factors, including external factors such as industry and economic trends, and internal factors such as changes in our business strategy and our internal forecasts. Although we believe the historical assumptions and estimates we have made are reasonable and appropriate, different assumptions and estimates could materially impact our reported financial results.

### ***Impairment of long-lived assets***

We review our long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. If the carrying value of a long-lived asset to be held and used is considered impaired, a loss is recognized based on the amount by which the carrying value exceeds the fair market value adjusted for estimated disposal costs.

### ***Warranty***

We provide reserves for costs associated with warranty claims at the time the products are sold. Warranty claims arise when a transmission fails while in service during the relevant warranty period. The warranty reserve is provided for by adjusting selling, general and administrative expenses by an amount based on our current and historical warranty claims paid and associated repair costs. These estimates are established using historical information including the nature, frequency, and average cost of warranty claims and are adjusted as actual information becomes available. Costs associated with ETC are recorded as incurred during the extended coverage period. From time to time, we may get involved in a specific field action program. As a result of the uncertainty surrounding the nature and frequency of specific field action programs, the liability for such programs is recorded when we commit to a specific field action. We review and assess the liability for these programs on a quarterly basis. We also assess our ability to recover certain costs from our suppliers and record a receivable from the supplier when we believe a recovery is probable.

### ***Pension and post-retirement obligations***

For pension and OPEB plans in which employees participate, costs are determined within the FASB's authoritative accounting guidance set forth on employers' defined benefit pensions including accounting for settlements and curtailments of defined benefit pension plans, termination of benefits and accounting for post-retirement benefits other than pensions. In accordance with the authoritative accounting guidance, we recognize the funded status of our defined benefit pension plans and OPEB plan in our Consolidated Balance Sheets with a corresponding adjustment to Accumulated other comprehensive income.

Post-retirement benefit costs consist of service cost, interest cost on accrued obligations and the expected return on assets (calculated using a smoothed market value of assets). Any difference between actual and expected returns on assets during a year and actuarial gains and losses on liabilities together with any prior service costs are charged (or credited) to income over the average remaining service lives of employees.

The benefit cost components shown in the Consolidated Statements of Operations are based upon certain data specific to our company, actuarial assumptions that were used for OPEB accounting disclosures, and certain allocation methodologies such as population demographics.

### ***Income taxes***

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the expected future tax consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. The future tax benefits associated with operating loss and tax credit carryforwards are recognized as deferred tax assets. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled.

The need to establish a valuation allowance against the deferred tax assets is assessed periodically based on a more-likely-than-not realization threshold, in accordance with authoritative accounting guidance. Appropriate consideration is given to all positive and negative evidence related to that realization. This assessment considers, among other matters, the nature, frequency and severity of recent losses, forecasts of future profitability, the duration of statutory carry forward periods, experience with tax attributes expiring unused, and tax planning alternatives. The weight given to these considerations depends upon the degree to which they can be objectively verified.

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**Results of Operations**

The following table sets forth certain financial information for the years ended December 31, 2010, 2009, and 2008, and should be read in conjunction with our historical audited consolidated financial statements and the notes thereto. Our historical results of operations set forth below and elsewhere may not reflect what will occur in the future.

<i>(dollars in millions)</i>	For the years ended December 31,		
	2010	2009	2008
<b>Consolidated Statement of Operations:</b>			
Net sales	\$1,926.3	\$1,766.7	\$2,061.4
Gross profit	828.2	619.8	735.9
Operating expenses:			
Selling, general and administrative expenses	384.9	391.2	412.6
Engineering — research and development	101.5	89.7	88.6
Trade name impairment	—	190.0	179.8
Total operating expenses	486.4	670.9	681.0
Operating income (loss)	341.8	(51.1)	54.9
Other income (expense), net:			
Interest income	3.5	1.4	5.1
Interest expense	(281.0)	(235.6)	(391.0)
Other income, net	19.0	2.8	40.0
Total other income (expense), net	(258.5)	(231.4)	(345.9)
Income (Loss) before income taxes	83.3	(282.5)	(291.0)
Income tax expense	(53.7)	(41.4)	(37.1)
Net income (loss)	\$ 29.6	\$ (323.9)	\$ (328.1)

**Comparison of years ended December 31, 2010 and 2009**

The following table was derived from our consolidated income statements for the years ended December 31, 2010 and 2009 included elsewhere in this prospectus.

<i>(dollars in millions)</i>	Year ended December 31,			
	2010	% of net sales	2009	% of net sales
Net sales	\$1,926.3	—	\$1,766.7	—
Gross profit	828.2	43.0%	619.8	35.1%
Operating expenses:				
Selling, general and administrative expenses	384.9	20.0	391.2	22.1
Engineering — research and development	101.5	5.3	89.7	5.1
Trade name impairment	—	—	190.0	10.8
Total operating expenses	486.4	25.3	670.9	38.0
Operating income (loss)	341.8	17.7	(51.1)	(2.9)
Other income (expense), net:				
Interest income	3.5	0.2	1.4	0.1
Interest expense	(281.0)	(14.6)	(235.6)	(13.3)
Other income, net	19.0	1.0	2.8	0.1
Total other income (expense), net	(258.5)	(13.4)	(231.4)	(13.1)
Income (Loss) before income taxes	83.3	4.3	(282.5)	(16.0)
Income tax expense	(53.7)	(2.8)	(41.4)	(2.3)
Net income (loss)	\$ 29.6	1.5%	\$ (323.9)	(18.3)%

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### ***Net sales***

Net sales for the year ended December 31, 2010 were \$1,926.3 million compared to \$1,766.7 million for the year ended December 31, 2009, an increase of 9.0%. The increase represents the impact of increased demand for global on-highway and off-highway commercial, wheeled military and aftermarket products, and price increases on certain products, partially offset by lower demand for hybrid-propulsion systems for transit buses and tracked military products. Our net sales in North America were \$ 1,574.9 million compared to \$1,483.2 million in 2009, representing an increase of 6.2%. Our non-North American net sales increased from \$283.5 million in 2009 to \$351.4 million in 2010, representing an increase of 24.0%.

### ***Gross profit***

Gross profit for the year ended December 31, 2010 was \$828.2 million compared to \$619.8 million for the year ended December 31, 2009, an increase of 33.6%. Gross profit as a percentage of net sales was 43.0% for the year ended December 31, 2010 compared to 35.1% for the year ended December 31, 2009. The increase in gross profit as a percentage of net sales is principally driven by operating leverage resulting from higher volumes, price increases on certain products, improved manufacturing performance, favorable material costs, and the elimination of certain charges, including the 2009 charge associated with legacy employee benefits, the 2009 restructuring charges and lower 2010 compensation costs resulting from the Employee Headcount Reduction Programs implemented in 2009. These factors were partially offset by higher incentive compensation consistent with improved business results and unfavorable foreign exchange rates.

### ***Selling, general and administrative expenses***

Selling, general and administrative expenses for the year ended December 31, 2010 were \$384.9 million compared to \$391.2 million for the year ended December 31, 2009, a decrease of 1.6%. The decrease was primarily driven by the elimination of \$11.4 million of 2009 warranty costs for our portion of the DPIM special coverage program, partially offset by increased spending commensurate with expanded global commercial activities.

### ***Engineering — research and development***

Engineering — research and development expenses for the year ended December 31, 2010 were \$101.5 million compared to \$89.7 million for the year ended December 31, 2009, an increase of 13.2%. The increase was principally driven by increased research and development expense associated with the Grant Program and other product initiatives, partially offset by \$8.1 million of a technology-related license expense.

### ***Trade Name impairment***

In 2010, our annual impairment test indicated that the fair value of the trade name exceeded its carrying, or book value, and therefore was not subject to impairment. In 2009, we recorded a trade name impairment charge of \$190.0 million driven by lower projected net sales as a result of weak economic conditions at that time.

### ***Interest expense, net***

Interest expense, net for the year ended December 31, 2010 was \$277.5 million compared to \$234.2 million for the year ended December 31, 2009, an increase of 18.5%. The increase was principally driven by higher mark-to-market expense of \$58.2 million for our interest rate derivatives, partially offset by lower interest rates, the impact of debt repayments and repurchases on interest expense, lower accretion driven by reduced balances of assumed non-current assets and liabilities, and lower amortization of deferred financing costs resulting from debt repayments and repurchases.

**Other income, net**

Other income, net for the year ended December 31, 2010 was \$19.0 million compared to \$2.8 million for the year ended December 31, 2009. The increase in other income was principally driven by the elimination of the (\$17.3) million 2009 unrealized loss as a result of the Employee Headcount Reduction Programs, \$10.2 million increase in Grant Program matching reimbursement and \$3.4 million related to the elimination of a severance liability reserve resulting from the new contract manufacturing agreement with General Motors-Powertrain-Hungary. These factors were partially offset by lower gains of \$5.6 million related to the repurchases and repayments of our outstanding debt, \$4.3 million of lower gains on commodity and foreign currency hedging contracts and \$2.2 million increase in foreign exchange losses.

**Income tax expense**

Income tax expense for the year ended December 31, 2010 was \$53.7 million resulting in an effective tax rate of 64.5% versus an effective tax rate of (14.7%) for the year ended 2009. Cash income taxes paid for the year ended December 31, 2010 were \$2.2 million, as compared to \$5.5 million for the year ended December 31, 2009. The change in effective tax rate was primarily driven by the increase in income before tax, the difference in tax and book treatment of certain indefinite life intangibles and our continuing policy of recording a full valuation allowance against our non-current deferred tax asset. We have taken a position that any non-current deferred tax asset is less than likely to be realized in future periods because of our lack of taxable income for purposes of our U.S. federal income tax payments.

**Comparison of years ended December 31, 2009 and 2008**

The following table was derived from our consolidated income statements for the years ended December 31, 2009 and 2008 included elsewhere in this prospectus.

<i>(dollars in millions)</i>	Year ended December 31,			
	2009	% of net sales	2008	% of net sales
Net sales	\$1,766.7	—	\$2,061.4	—
Gross profit	619.8	35.1%	735.9	35.7%
Operating expenses:				
Selling, general and administrative expenses	391.2	22.1	412.6	20.0
Engineering — research and development	89.7	5.1	88.6	4.3
Trade name impairment	190.0	10.8	179.8	8.7
Total operating expenses	670.9	38.0	681.0	33.0
Operating (loss) income	(51.1)	(2.9)	54.9	2.7
Other income (expense), net:				
Interest income	1.4	0.1	5.1	0.2
Interest expense	(235.6)	(13.3)	(391.0)	(19.0)
Other income, net	2.8	0.1	40.0	2.0
Total other income (expense), net	(231.4)	(13.1)	(345.9)	(16.8)
Loss before income taxes	(282.5)	(16.0)	(291.0)	(14.1)
Income tax expense	(41.4)	(2.3)	(37.1)	(1.8)
Net loss	\$ (323.9)	(18.3)%	\$ (328.1)	(15.9)%

**Net sales**

Net sales for the year ended December 31, 2009 were \$1,766.7 million compared to \$2,061.4 million for the year ended December 31, 2008, a decrease of 14.3%. The decrease represents the impact of lower demand for on-highway and off-highway commercial products driven by global economic conditions and decreased sales of wheeled military products primarily due to the wind down of Mine Resistant Ambush Protected, or MRAP, vehicle production programs, partially offset by higher volume, for hybrid-propulsion systems for transit buses

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and tracked military products, as well as price increases on certain products. Our net sales in North America were \$1,483.2 million compared to \$1,683.1 million in 2008, representing a decrease of 11.9%. Our non-North American net sales decreased from \$378.3 million in 2008 to \$283.5 million in 2009, representing a decrease of 25.1%.

### **Gross profit**

Gross profit for the year ended December 31, 2009 was \$619.8 million compared to \$735.9 million for the year ended December 31, 2008, a decrease of 15.8%. Gross profit as a percentage of net sales was 35.1% for the year ended December 31, 2009 compared to 35.7% for the year ended December 31, 2008. The decrease in gross profit as a percentage of net sales is principally driven by lower volume resulting in less fixed cost absorption, unfavorable foreign exchange rates and certain charges. These factors were partially offset by favorable material costs, price increases on certain products and lower compensation costs.

### **Selling, general and administrative expenses**

Selling, general and administrative expenses for the year ended December 31, 2009 were \$391.2 million compared to \$412.6 million for the year ended December 31, 2008, a decrease of 5.2%. The decrease was primarily driven by the Employee Headcount Reduction Programs and lower transitional costs associated with our establishment as a stand-alone entity of \$18.0 million, partially offset by \$9.2 million of increased warranty expense for our portion of the DPIM special coverage program.

### **Engineering — research and development**

Engineering — research and development expenses for the year ended December 31, 2009 were \$89.7 million compared to \$88.6 million for the year ended December 31, 2008, an increase of 1.2%. The increase was primarily driven by \$8.1 million of a technology-related license expense, partially offset by lower compensation costs resulting from the Employee Headcount Reduction Programs.

### **Trade Name impairment**

We recorded a trade name impairment charge of \$190.0 million for the year ended December 31, 2009 compared to a trade name impairment charge of \$179.8 million for the year ended December 31, 2008. The impairment charge in 2009 was triggered by lower projected net sales as a result of weak global economic conditions at that time. The impairment charge in 2008 was a result of our annual impairment test and was driven principally by an increase in the discount factor that was in effect on the measurement date and lower projected net sales as a result of general economic conditions.

### **Interest expense, net**

Interest expense — net for the year ended December 31, 2009 was \$234.2 million compared to \$385.9 million for the year ended December 31, 2008, a decrease of 39.3%. The decrease was primarily driven by lower interest rates, increased mark-to-market gains of \$89.0 million resulting from our interest rate derivatives, the impact of debt repayments and repurchases in 2008 and 2009, a realized gain of \$4.9 million in 2009 due to the settlement of two interest rate derivatives and lower accretion of assumed non-current assets and liabilities.

### **Other income, net**

Other income, net for the year ended December 31, 2009 was \$2.8 million compared to \$40.0 million for the year ended December 31, 2008. The decrease in other income of \$37.2 million was primarily driven by a \$17.3 million first quarter 2009 unrealized loss as a result of Employee Headcount Reduction Programs,

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elimination of the \$14.6 million favorable adjustment in the fourth quarter 2008 related to change in actuarial valuations of legacy employee benefits, \$12.1 million of lower gains realized on the repurchases of long-term debt and lower currency exchange gain of \$4.3 million from 2008 to 2009, partially offset by unrealized commodity hedge gains of \$5.8 million and gain of \$2.7 million resulting from a Cure Agreement pursuant to GM's emergence from bankruptcy in 2009.

### **Income tax expense**

Income tax expense for the year ended 2009 was \$41.4 million resulting in an effective tax rate of (14.7%) versus an effective tax rate of (12.7%) for the year ended December 31, 2008. Cash income taxes paid for the year ended December 31, 2009 were \$5.5 million, as compared to \$4.3 million for the year ended December 31, 2008. The income tax expense was driven primarily by the difference in tax and book treatment of certain intangibles. In addition, we continued to record a full valuation allowance against our non-current deferred tax asset. We have taken a position that any non-current deferred tax asset is less than likely to be realized in future periods because of our lack of taxable income.

### **Liquidity and Capital Resources**

We generate cash primarily from our operating activities. We had total available cash and cash equivalents of \$252.2 million and \$153.1 million as of December 31, 2010 and 2009, respectively. Of the available cash and cash equivalents, approximately \$134.3 million and \$105.2 million was deposited in operating accounts while approximately \$117.9 million and \$47.9 million was invested in U.S. government backed securities as of December 31, 2010 and 2009, respectively.

Additionally, we had \$307.3 million and \$301.2 million available under the revolving credit facility, net of approximately \$10.2 million and \$16.3 million in letters of credit issued and outstanding as of December 31, 2010 and 2009, respectively, and net of a \$82.5 million reduction in availability as a result of the Lehman bankruptcy.

Our principal uses of cash are operating expenses, capital expenditures, debt service and working capital needs. The following table shows our sources and uses of funds for the years ended December 31, 2010, 2009 and 2008 (in millions):

<i>Statement of Cash Flows Data</i>	<b>Year ended December 31,</b>		
	<b>2010</b>	<b>2009</b>	<b>2008</b>
Cash flows from operating activities	\$ 388.9	\$ 168.7	\$ 268.1
Cash flows (used for) investing activities	(95.3)	(113.2)	(74.9)
Cash flows (used for) financing activities	(197.9)	(135.4)	(188.1)

Generally, cash provided by operating activities has been adequate to fund our operations. Due to fluctuations in our cash flows and the growth in our operations, it may be necessary from time to time in the future to borrow under the revolving facility to meet cash demands. We anticipate cash provided by operating activities, cash and cash equivalents and borrowing capacity under the revolving facility will be sufficient to meet our cash requirements for the next twelve months.

### **Cash provided by operating activities**

Operating activities for the year ended December 31, 2010 generated \$388.9 million of cash compared to \$168.7 million for the year ended December 31, 2009. The increase was primarily driven by increased net sales, higher accounts payable commensurate with increased net sales, lower accounts receivable driven by a 2009 late payment received from a significant customer in 2010, lower compensation costs resulting from the Employee Headcount Reduction Programs, improved manufacturing performance, lower warranty costs, lower interest

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expense, net and higher other income, net. These factors were partially offset by higher finished goods inventories commensurate with increase net sales, increased spending commensurate with expanded global commercial activities and increased engineering — research and development costs.

Operating activities for the year ended December 31, 2009 generated \$168.7 million of cash compared to \$268.1 million for the year ended December 31, 2008. The decrease was primarily driven by decreased net sales, higher accounts receivable due to a significant customer balance due in 2009 not received until early 2010, lower accounts payable commensurate with decreased net sales and lower other income, net. These factors were partially offset by lower compensation costs resulting from Employee Headcount Reduction Programs, lower manufacturing and material spending, favorable commodity prices, cost reduction initiatives and lower interest expense, net.

### ***Cash used for investing activities***

Investing activities for the year ended December 31, 2010 used \$95.3 million of cash compared to \$113.2 million for the year ended December 31, 2009. The decrease was primarily driven by a reduction of \$14.4 million in capital expenditures as the construction of our India facility was completed and the 2009 purchase of a technology-related license agreement.

Investing activities for the year ended December 31, 2009 used \$113.2 million of cash compared to \$74.9 million for the year ended December 31, 2008. The increase was primarily driven by the requirement to post \$22.0 million of collateral for our interest rate derivatives and an increase of \$12.9 million in capital expenditures related to the construction of our India facility.

### ***Cash used for financing activities***

Financing activities for the year ended December 31, 2010 used \$197.9 million of cash compared to \$135.4 million for the year ended December 31, 2009. The increase was primarily driven by \$71.4 million of additional voluntary repurchases and principal payments on our long-term debt, partially offset by \$8.9 million of 2009 repayments on Japanese Yen denominated short-term notes.

Financing activities for the year ended December 31, 2009 used \$135.4 million of cash compared to \$188.1 million for the year ended December 31, 2008. The decrease was primarily driven by a reduction of \$62.0 million in voluntary repurchases and principal payments on our long-term debt, partially offset by \$8.9 million of repayments on Japanese Yen denominated short-term notes.

Our liquidity requirements are significant, primarily due to our debt service requirements. A one-eighth percent change in assumed interest rates for the Senior Secured Credit Facility, if fully drawn, for the year ended December 31, 2010 would have had an impact of \$2.9 million on interest expense, which includes the partial offset of our interest rate swaps. If we elect the pay-in-kind, or PIK, option with respect to the Senior Toggle Notes, our interest expense will be 75 basis points higher for each interest period in which we elect the PIK option. We cannot elect the PIK option for interest periods ending after November 1, 2011. Our ability to make payments on and to refinance our indebtedness, and to fund planned capital expenditures will depend on our ability to generate cash in the future. This is subject to general economic, financial, competitive, legislative, regulatory and other factors that may be beyond our control.

In November of 2008, we entered into an amendment related to the Senior Secured Credit Facility that permits us to make discounted voluntary prepayments of our term loan in an aggregated amount not to exceed \$750 million pursuant to a modified Dutch auction. This provision is available to us for so long as the term loan is outstanding. For the years ended December 31, 2010, 2009 and 2008, we repurchased \$97.2 million, \$58.5 million and \$19.7 million of our term loan under this amendment, respectively. The repurchases of the term loan resulted in gains (the discount between the purchase price of the term loan and the face value of such term loan) for the years ended December 31, 2010, 2009 and 2008 of \$4.1 million, \$4.4 million and \$6.8 million, net of deferred financing fees written off, respectively.

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In addition, we made principal payments of \$106.0 million, \$52.2 million and \$73.3 million on the Senior Secured Credit Facility for the years ended December 31, 2010, 2009 and 2008, respectively. The principal payments made on the Senior Secured Credit Facility for the years ended December 31, 2010, 2009 and 2008 resulted in losses of \$0.8 million, \$0.3 million and \$0.7 million associated with the write off of related deferred debt issuance costs, respectively.

The Senior Secured Credit Facility requires us to maintain a specified maximum total senior secured leverage ratio that becomes more restrictive over the term of the loan.

	<u>Maximum Total Senior Secured Leverage Ratio</u>
Quarter ending March 31, 2011	6.00x
Quarter ending June 30, 2011	5.75x
Quarter ending September 30, 2011	5.75x
Quarter ending December 31, 2011 and thereafter	5.50x

In addition to the maximum total secured leverage ratio, the Senior Secured Credit Facility and the indentures governing the Senior Notes include, among other things customary restrictions (subject to certain exceptions) on our ability to incur certain indebtedness or liens, make certain investments or declare or pay any dividends. As of December 31, 2010, we believe we are in compliance with all covenants.

To manage interest rate risk associated with our variable rate debt, we currently have nine interest rate swap contracts as of December 31, 2010 that qualify as derivatives under authoritative accounting guidance for derivative instruments and hedging activities. We have not elected hedge accounting treatment for the interest rate swaps and, as a result, fair value adjustments are charged directly to interest expense in the Consolidated Statements of Operations. Despite the fact that we have elected a mark-to-market approach as opposed to hedge accounting treatment, the contracts are used strictly as an economic hedge and not for speculative purposes.

In the third quarter of 2010, we had an interest rate swap and collar mature. The interest rate swap agreement was with Merrill Lynch Capital Services, Inc., or MLCS, and had a notional amount of \$537.0 million of the Senior Secured Credit Facility at a fixed rate of 5.05% plus the applicable margin. The interest rate collar agreement was with MLCS and had a notional amount of \$268.5 million of the Senior Secured Credit Facility with an interest rate collar of 4.08% to 5.50%. Both the interest rate swap and collar matured on September 10, 2010.

In the third quarter of 2010, we entered into two interest rate swaps. The first swap is a \$125.0 million interest rate swap, effective August 1, 2013 through August 1, 2014, at an all-in-rate of 2.96% and an independent collateral requirement of \$1.0 million. The second swap is a \$125.0 million interest rate swap, effective August 1, 2013 through August 1, 2014, at an all-in-rate of 3.05% and an independent collateral requirement of \$1.0 million.

As of December 31, 2010, certain of our interest rate derivatives contain credit-risk and collateral contingent features. Certain interest rate derivatives contain provisions under which downgrades in our credit rating could require us to increase our collateral. Certain interest rate derivatives also contain provisions under which we may be required to post additional collateral if the LIBOR reaches certain levels. As of December 31, 2010, we have been required to post additional collateral of \$41.9 million beyond our \$2.0 million independent collateral requirement. The additional collateral requirements were driven by lower interest rates.

### **Description of the Senior Secured Credit Facility**

Our wholly owned subsidiary ATI is the borrower under the Senior Secured Credit Facility, which consists of a term loan facility and a revolving credit facility. The term loan facility has a principal amount outstanding of \$2,685.4 million as of December 31, 2010. The revolving credit facility has a principal amount of \$400.0 million,

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net of an allowance for up to \$50.0 million in outstanding letter of credit commitments. As of December 31, 2010, there were no outstanding borrowings against the revolving credit facility and \$10.2 million in letters of credit issued and outstanding. The revolving credit facility is available for general corporate purposes, subject to certain conditions. The ability to draw on the revolving credit facility is conditioned upon, among other things, continued compliance with covenants in the credit agreement, the ability to bring down the representations and warranties contained in the credit agreement and the absence of any default or event of default under the Senior Secured Credit Facility.

On September 14, 2008, Lehman filed for bankruptcy, effectively reducing the available revolving credit facility from \$400.0 million to \$317.5 million. At the time of bankruptcy, Lehman Commercial Paper Inc., or LCPI, was a participating lender in the our revolving credit facility with a commitment of \$82.5 million, which LCPI indicated it would not fund in the event we attempted to draw down the revolver. On August 11, 2009, we reached an agreement with LCPI that eliminated LCPI's requirement to fund its commitment to the revolving credit facility in exchange for eliminating LCPI's annual commitment fee paid. LCPI's commitment has not been assigned to or assumed by any party. As of December 31, 2010, after eliminating LCPI's requirement to fund the revolver, the available amount under the revolver was \$307.3 million, net of \$10.2 million of issued and outstanding letters of credit.

The revolving credit facility matures in 2013, and the term loan facility matures in 2014. The term loan facility amortizes in quarterly installments of 0.25%, or \$7.75 million, beginning on the last business day in December 2007 until maturity, whereby the final installment of the term loan facility will be paid on the maturity date in an amount equal to the aggregate unpaid principal amount.

The obligations under the Senior Secured Credit Facility are secured and fully and unconditionally guaranteed jointly and severally by us and each of our material wholly owned restricted U.S. subsidiaries currently existing or that we may create or acquire (other than the borrower), with certain exceptions as set forth in the credit agreement, pursuant to the terms of a separate guarantee and collateral agreement.

In November of 2008, ATI entered into an amendment to the Senior Secured Credit Facility that permits it to make discounted voluntary prepayments of our term loan in an aggregated amount not to exceed \$750 million pursuant to a modified Dutch auction. This provision is available to ATI for so long as the term loans are outstanding. The amounts of any future voluntary prepayments may be material.

Our borrowings under the Senior Secured Credit Facility, all guarantees thereof, the obligations under specified hedging agreements and certain cash management obligations are secured by a perfected first priority security interest in: all of ATI's capital stock and all of the capital stock or other equity interests held by us, ATI and each of our existing and future U.S. subsidiary guarantors (subject to certain limitations for equity interests of foreign subsidiaries and other exceptions as set forth in the credit agreement); and substantially all of our and ATI's tangible and intangible assets and the tangible and intangible assets of each of the existing and future U.S. subsidiary guarantors, with certain exceptions as set forth in the credit agreement.

The borrowings under the Senior Secured Credit Facility bear interest at a rate equal to an applicable margin plus, at our option, either: a base rate determined by reference to the higher of the prime lending rate set forth on the British Banking Association Telerate Page 5 and the federal funds rate plus 0.5%; or a LIBOR rate on deposits in U.S. Dollars for one-, two-, three- or six-month periods (or nine- or twelve-month periods if, at the time of the borrowing, available from all relevant lenders). The applicable margin on loans under the Senior Secured Credit Facility is 1.75% for base rate loans and 2.75% for LIBOR rate loans. The applicable margin for both the revolving loan and the term loan is subject to change depending on our total senior secured leverage ratio. ATI also pay the lenders a commitment fee on the unused commitments under the revolving credit facility, which is payable quarterly in arrears. The commitment fee is subject to change depending on our total senior secured leverage ratio.

Subject to exceptions for reinvestment of proceeds and other exceptions and materiality thresholds, ATI is required to prepay outstanding loans under the Senior Secured Credit Facility with the net proceeds of certain asset dispositions and casualty and condemnation events and the incurrence of certain debt (to the extent not

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permitted under the Senior Secured Credit Facility), and 50% of its excess cash flow, as defined, subject to reduction to 25% if certain total senior secured leverage ratios are met. ATI may voluntarily prepay loans or reduce commitments under the Senior Secured Credit Facility, in whole or in part, subject to minimum amounts. As discussed above, ATI can also voluntarily prepay term loans at a discount subject to certain covenants. As a result of voluntary payments made during 2010, we do not expect any excess cash flow payment to be made for the year ended December 31, 2010. We paid approximately \$0.0 million and \$21.2 million as excess cash flow for the years ended December 31, 2009 and 2008. If we prepay LIBOR rate loans other than at the end of an applicable interest period, we are required to reimburse lenders for their losses or expenses sustained as a result of breakage costs incurred by such prepayment.

The Senior Secured Credit Facility contains a maximum total senior secured leverage ratio covenant that becomes more restrictive over the term of the loan, and also includes customary negative and affirmative covenants affecting ATI and our existing and future restricted subsidiaries, with certain exceptions set forth in the credit agreement. The Senior Secured Credit Facility contains the following negative covenants and restrictions, among others: restrictions on liens, debt, dividends and other restricted payments, redemptions and stock repurchases, consolidations and mergers, acquisitions, investments, loans, advances, changes in line of business, changes in fiscal year, restrictive agreements with subsidiaries, transactions with affiliates, speculative hedging agreements, and no modification of the Senior Notes in a materially adverse manner without lender consent. The Senior Secured Credit Facility contains the following affirmative covenants, among others: delivery of financial and other information to the administrative agent, notice to the administrative agent upon the occurrence of certain defaults, litigation and other material events, conduct of business and existence, payment of material taxes and other governmental charges, maintenance of properties, licenses and insurance, access to books and records by the lenders, use of proceeds, compliance with applicable laws and regulations, further assurances and provision of additional collateral and guarantees. As of December 31, 2010, we believe ATI is in compliance with all covenants.

The Senior Secured Credit Facility specifies certain events of default, including, among others: failure to pay principal, interest or fees, violation of covenants, material inaccuracy of representations and warranties, cross-defaults to material indebtedness for borrowed money, certain bankruptcy and insolvency events, certain material judgments, certain Employee Retirement Income Security Act events, change of control and invalidity of guarantees or security documents.

### **Description of the Senior Notes**

On October 16, 2007, ATI issued \$550.0 million of Senior Cash Pay Notes. On October 17, 2007, ATI issued \$550.0 million of its Senior Toggle Notes. The Senior Notes will mature on November 1, 2015. Interest on the Senior Cash Pay Notes accrues at a rate of 11.0% per year and is payable semi-annually in arrears on May 1 and November 1 of each year. Interest on the Senior Toggle Notes accrues at a rate of 11.25% per year with respect to cash payments and 12.0% per year with respect to PIK interest payments, payable semi-annually in arrears on May 1 and November 1 of each year. For any interest period through November 1, 2011, ATI may elect to pay interest on the Senior Toggle Notes, at its option, entirely in cash, entirely with PIK interest payments, or 50% in cash and 50% with PIK interest payments. After November 1, 2011, ATI must make all interest payments in cash only.

The Senior Notes are unsecured and guaranteed by the subsidiaries that guarantee the Senior Secured Credit Facility and will be unconditionally guaranteed, jointly and severally, by any future domestic subsidiaries that guarantee the Senior Secured Credit Facility. We or our affiliates may from time to time seek to retire the Senior Notes through cash purchases and/or exchanges for equity securities, in open market purchases, privately negotiated transactions or otherwise. Such repurchases or exchanges, if any, will depend on prevailing market conditions, our liquidity requirements, contractual restrictions and other factors. The amounts involved may be material.

Prior to November 1, 2011, ATI may redeem some or all of the Senior Notes by paying the applicable “make-whole” premium. At any time on or after November 1, 2011, ATI may redeem some or all of the Senior Notes at specified redemption prices in the indentures governing the Senior Cash Pay Notes and Senior Toggle

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Notes. As of December 31, 2010, ATI has not redeemed any of the Senior Notes. Upon a change of control event, ATI may be required to make an offer to purchase the Senior Notes at a price equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, to the date of purchase. In certain instances in accordance with the terms of the indentures, ATI may be required to make an offer to repurchase the Senior Notes at a purchase price equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, with the excess proceeds from asset sales.

The indentures governing the Senior Notes contain negative covenants restricting or limiting ATI's ability to, among other things: incur or guarantee additional indebtedness, incur liens; pay dividends on, redeem or repurchase our capital stock; make certain investments, permit payment or dividend restrictions on certain of our subsidiaries, sell assets, engage in certain transactions with affiliates, and consolidate or merge or sell all or substantially all of ATI's assets. Certain of these covenants would be suspended if the Senior Notes were to reach investment grade.

### **Contractual Obligations, Contingent Liabilities and Commitments**

The following table summarizes our contractual obligations as of December 31, 2010 (dollars in millions):

<i>Contractual Obligations</i>	<b>Payments due by period</b>				
	<b>Total</b>	<b>Less than 1 year</b>	<b>1-3 years</b>	<b>3-5 years</b>	<b>More than 5 years</b>
Senior Toggle Notes(1)	\$ 777.7	\$ 56.8	\$ 113.7	\$ 607.2	\$ —
Senior Cash Pay Notes(2)	729.9	52.6	105.2	572.1	—
Senior Secured Credit Facility(3)	2,972.8	112.0	221.2	2,639.6	—
Operating leases	10.4	5.5	4.3	0.5	0.1
Service fee(4)	15.0	3.0	6.0	6.0	see (4) below
Pension & OPEB liabilities(5)	73.4	13.2	30.6	29.6	see (5) below
<b>Total(6)</b>	<b>\$4,579.2</b>	<b>\$ 243.1</b>	<b>\$481.0</b>	<b>\$3,855.0</b>	<b>\$ 0.1</b>

- (1) Senior Toggle Notes include principal and interest payments based on a fixed interest rate of 11.25%, assuming the election to pay cash interest for all periods. If the PIK option is elected, the interest rate will increase by 75 basis points for the applicable interest period and the interest payment schedule will adjust accordingly.
- (2) Senior Cash Pay Notes include principal and interest payments based on a fixed interest rate of 11.00%.
- (3) Senior Secured Credit Facility includes principal payments and estimated interest payments excluding the effects of our interest rate swaps. A portion of the interest is at a variable rate and for the purposes of this table has been calculated using LIBOR as of December 31, 2010, plus the applicable margin of 2.75%, resulting in an applied rate of 3.03%. Actual payments will vary.
- (4) As described in Certain Relationships and Related Party Transactions in NOTE 19 of our consolidated financial statements included in this prospectus, we entered into a service agreement with the Sponsors in connection with the Acquisition Transaction. Pursuant to this agreement, subject to certain conditions, we will pay the Sponsors an annual service fee of \$3.0 million for certain advisory, consulting and other services. This service fee is excluded from the table beyond year 5, though we expect it to continue as long as the service agreement remains in place.
- (5) Estimated pension funding and post-retirement benefit payments are based on a 5.3% discount rate and effective interest rate for funding purposes. Pension funding and post-retirement benefit payments are excluded from the table beyond year 5, though we expect funding and payments to continue beyond year 5. See NOTE 12 in our consolidated financial statements included in this prospectus for the funding status of our pension plans and other post-retirement plan as of December 31, 2010.
- (6) Estimated warranty obligations, sales allowance programs and military price reduction reserves, which total \$128.5 million, \$36.7 million and \$25.1 million as of December 31, 2010, respectively, have been excluded from this table as amounts and timing of any payments are unknown.

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### **Contingencies**

We are a party to various legal actions and administrative proceedings and subject to various claims arising in the ordinary course of business, including those relating to commercial transactions, product liability, safety, health, taxes, environmental and other matters. For more information, see “Business — Litigation” and NOTE 16 of our consolidated financial statements included elsewhere in this prospectus.

### **Sales Outside North America**

Approximately 18%, 16% and 18% of our net sales from continuing operations in 2010, 2009 and 2008, respectively, were derived from sales made to customers outside of North America. Because of these sales outside North America, our business is subject to the risks of doing business abroad, including currency exchange rate fluctuations, limits on repatriation of funds, compliance with foreign laws and other economic and political uncertainties.

### **Off-Balance Sheet Arrangements**

We are not a party to any off-balance sheet arrangements.

### **Recently Adopted Accounting Pronouncements**

In January 2010, the FASB issued authoritative accounting guidance to require disclosure of transfers between the observable input categories and activity in the unobservable input category for fair value measurements. The guidance also requires disclosures about the inputs and valuation techniques used to measure fair value. This guidance became effective for companies interim and annual reporting periods beginning January 1, 2010. Our adoption of this accounting guidance did not have an impact on our financial condition and results of operations.

In October 2009, the FASB issued authoritative accounting guidance on multiple-deliverable arrangements to enable vendors to account for products and services (deliverables) separately rather than as a combined unit. The objective of the guidance is to address the timing of net sales recognition as it relates to the delivery of multiple products or services. It addresses how the vendor should separate deliverables and how to measure and allocate arrangement consideration to one or more units of accounting. If a vendor does not have appropriate evidence for the undelivered elements in an arrangement, the net sales associated with both delivered and undelivered elements are combined into one unit of accounting. Any net sales attributable to the delivered products is then deferred and recognized as the undelivered elements are delivered by the vendor. This guidance was effective prospectively for net sales arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010. Earlier adoption is permitted. Our adoption of this guidance on January 1, 2011 did not have a material impact on our consolidated financial statements.

### **Quantitative and Qualitative Disclosures about Market Risk**

Our exposure to market risk consists of changes in interest rates, foreign currency rate fluctuations and movements in commodity prices.

#### ***Interest Rate Risk***

We are subject to interest rate market risk in connection with a portion of our long-term debt. Our principal interest rate exposure relates to outstanding amounts under the Senior Secured Credit Facility. The Senior Secured Credit Facility provides for variable rate borrowings of up to \$3,075.2 million including \$389.8 million under our revolving credit facility, net of \$10.2 million of letters of credit. Assuming the Senior Secured Credit Facility is fully drawn, each one-eighth percentage point increase or decrease in the applicable interest rates

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would correspondingly change our interest cost on the Senior Secured Credit Facility by approximately \$3.0 million per year. This includes the partial offset of the interest rate swaps described below. As of December 31, 2010, we had no outstanding borrowings against the revolving credit facility.

In order to mitigate our exposure to LIBOR on the Senior Secured Credit Facility, we have entered into certain interest rate swap agreements. Interest Rate Swap B, with MLCS has a notional amount of \$250.0 million of the Senior Secured Credit Facility at a fixed rate of 3.39% plus the applicable margin. Interest Rate Swap D, with Fifth Third Bank, has a notional amount of \$125.0 million of the Senior Secured Credit Facility at a fixed rate of 4.26% plus the applicable margin. Interest Rate Swap E, with Barclays Capital, has a notional amount of \$150.0 million of the Senior Secured Credit Facility at a fixed rate of 2.79% plus the applicable margin. Interest Rate Swap F, with Barclays Capital, has a notional amount of \$75.0 million of the Senior Secured Credit Facility at a fixed rate of 2.66% plus the applicable margin. Interest Rate Swap G, with Barclays Capital, has a notional amount of \$75.0 million of the Senior Secured Credit Facility at a fixed rate of 2.99% plus the applicable margin. Interest Rate Swap H, with Barclays Capital, has a notional amount of \$350.0 million of the Senior Secured Credit Facility at a fixed rate of 3.75% plus the applicable margin, effective August 2011. Interest Rate Swap I, with Deutsche Bank, has a notional amount of \$350.0 million of the Senior Secured Credit Facility at a fixed rate of 3.77% plus the applicable margin, effective August 2011. Interest Rate Swap J, with UBS AG, or UBS, has a notional amount of \$125.0 million of the Senior Secured Credit Facility at a fixed rate of 2.96% plus the applicable margin, effective August 2013, with an independent collateral requirement of \$1.0 million. Interest Rate Swap K, with UBS, has a notional amount of \$125.0 million of the Senior Secured Credit Facility at a fixed rate of 3.05% plus the applicable margin, effective August 2013, with an independent collateral requirement of \$1.0 million. In certain circumstances, we and the counterparty are required to provide additional collateral under these swaps. We are exposed to loss if the counterparty defaults. Refer to NOTE 7 and NOTE 8 of our consolidated financial statements included elsewhere in this prospectus.

### ***Exchange Rate Risk***

While our net sales and costs are denominated primarily in U.S. Dollars, net sales, costs, assets and liabilities are generated in other currencies including Japanese Yen, Euro, Chinese Yuan Renminbi and Indian Rupee. The expansion of our business outside North America may further increase the risk that cash flows resulting from these activities may be adversely affected by changes in currency exchange rates. As of December 31, 2010, we hold hedging contracts in the Japanese Yen and Euro, which are intended to hedge either known or forecasted cash flow payments denominated in the Japanese Yen or Euro. We do not intend to hold financial instruments for trading or speculative purposes.

Assuming current levels of foreign currency transactions, a 10% increase or decrease in the Japanese Yen and Euro would correspondingly change our earnings by approximately \$2 million and \$1 million per year, respectively. This includes the partial offset of our hedging contracts described below. All other exposure to foreign currencies is considered immaterial.

### ***Commodity Price Risk***

We are subject to changes in our cost of sales caused by movements in underlying commodity prices. Approximately two-thirds of our cost of sales consists of purchased components with significant raw material content. A substantial portion of the purchased parts are made of aluminum and steel. The cost of aluminum parts include an adjustment factor on future purchases for fluctuations in aluminum prices based on accepted industry indices. In addition, a substantial amount of steel-based contracts also include an index-based component. As our costs change, we are able to pass through a portion of the charges to certain of our customers according to our long-term supply agreements. We historically have not entered into long-term purchase contracts related to the purchase of aluminum and steel. We currently hold financial forward contracts that are intended to hedge forecasted aluminum and steel purchases. Based on our forecasted demand for 2011, as of December 31, 2010, the hedge contracts cover approximately 48% of our aluminum requirements and 6% of our steel requirements. Based on our forecasted demand for 2012, as of December 31, 2010, the hedge contracts cover approximately 24% of our aluminum requirements and 0% of our steel requirements. We do not intend to hold financial instruments for trading or speculative purposes.

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Assuming current levels of commodity purchases, a 10% increase or decrease in aluminum and steel would correspondingly change our earnings by approximately \$1 million and \$3 million per year, respectively. This includes the partial offset of our hedging contracts described below.

Many of our recently renewed Long Term Sales Agreements, or LTSAs, have incorporated a cost-sharing arrangement related to future commodity price fluctuations. Our hedging policy is that we only hedge for our exposure and do not hedge any portion of the customers exposure. For purposes of the sensitivity analysis above, the impact of these cost sharing arrangements have not been included.

## BUSINESS

### Our Business

We are the world's largest manufacturer of fully-automatic transmissions for medium- and heavy-duty commercial vehicles, medium- and heavy-tactical U.S. military vehicles and hybrid-propulsion systems for transit buses. Allison transmissions are used in a variety of applications, including on-highway trucks (distribution, refuse, construction, fire and emergency), buses (primarily school and transit), motorhomes, off-highway vehicles and equipment (primarily energy and mining) and military vehicles (wheeled and tracked). The Allison brand is one of the most recognized in our industry as a result of the performance, reliability and fuel efficiency of our transmissions. We estimate that globally, in 2010, we sold approximately 60% of all fully-automatic transmissions for medium- and heavy-duty on-highway commercial vehicle applications, and we are well-positioned to capitalize on numerous attractive growth opportunities. For the year ended December 31, 2010, we generated net sales of \$1,926.3 million, net income of \$29.6 million, Adjusted net income of \$273.7 million and Adjusted EBITDA of \$617.0 million, representing a 32.0% Adjusted EBITDA margin.

We introduced the world's first fully-automatic transmission for commercial vehicles over 60 years ago. Since that time, we have driven the trend towards increasing automaticity by targeting a diverse range of commercial vehicle vocations where our products deliver a compelling value proposition. As compared to manual transmissions and AMTs, we believe the superior performance attributes of our fully-automatic transmissions include lower maintenance costs, reduced vehicle downtime, ease of operation, increased safety and improved driver and passenger comfort. We believe our transmissions offer increased fuel efficiency and faster acceleration, resulting in lower operating costs and increased productivity when they are used in vehicles with duty cycles that require a high degree of "start and stop" activity. As a result of these attributes, our fully-automatic transmissions are the standard or exclusive transmission offered in the powertrain configuration of numerous vehicles, including school buses, fire and emergency vehicles, mining trucks and medium- and heavy-tactical U.S. military vehicles. In applications where our transmission is offered as an alternative to a manual transmission or an AMT, such as distribution and refuse trucks, end users often specify an "Allison" transmission when ordering a commercial vehicle, creating pull-through demand for our products to our OEM customers.

The Allison brand is one of the most recognized and respected names in the commercial vehicle industry and is associated with high quality, reliability, durability, vocational value, technological leadership and superior customer service. We believe our brand helps us maintain our leading market position and price our products commensurate with the value provided to the end user. Allison transmissions are optimized for the unique performance requirements of end users, which typically vary by vocation. Our products are highly engineered, requiring advanced manufacturing processes, and employ complex software algorithms for our transmission controls to maximize end user performance. We have developed over 100 different models that are used in more than 2,500 different vehicle configurations and are compatible with more than 500 combinations of engine brands, models and ratings (including diesel, gasoline, compressed natural gas and other alternative fuels). In 2010, over 10,000 unique Allison developed calibrations were used with our transmission control modules. We believe our scale, experience and culture of innovation reinforce our leading market position and provide us with an enduring competitive advantage.

We believe we are well-positioned to capitalize on numerous attractive growth opportunities globally, including an expected recovery in our developed markets, increased adoption of fully-automatic transmissions in emerging markets and new product introductions. Our core North American on-highway market, which we define to include Class 4-7 trucks, Class 8 straight trucks, buses (school, conventional transit, shuttle and coach) and motorhomes, is poised for continued recovery. According to ACT Research, on-highway commercial vehicle production in North America (excluding transit and coach bus, and motorhome) reached a 20-year low in 2009 and is anticipated to experience a CAGR of 20.4% from 2010 to 2013. We expect to benefit from a similar recovery in Western Europe. In addition, we believe the increasing trend towards automaticity outside North America represents a major growth opportunity for us, as we estimate that less than 5% of the medium- and heavy-duty commercial vehicles sold outside North America in 2010 were equipped with fully-automatic transmissions, as compared to 79% in our core North American market. This anticipated growth will be

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facilitated by our established international operations and customer relationships. For example, we are the leading provider of fully-automatic transmissions for medium- and heavy-duty commercial vehicles in China with a substantial installed base of over 30,000 Allison transmissions. In addition, in response to the evolving global focus on fuel consumption, we are developing new products to improve fuel efficiency without compromising performance. Over the last three years, we have accelerated and significantly increased our investment in research and development resulting in more new products under development today than at any time in our history. Examples of our key innovations include the development of a fully-automatic hybrid-propulsion system for the medium- and heavy-duty commercial truck markets and a fully-automatic transmission for a portion of the Class 8 tractor market, where we currently have a limited presence.

With strong margins, low maintenance capital expenditures and minimal U.S. federal income tax payments, we believe Allison has a strong and sustainable financial profile. We continue to execute on a number of manufacturing and purchasing initiatives to increase efficiency, reduce operating costs and enhance our profitability and cash flow generation capabilities. For example, in 2008, we negotiated a mutually beneficial labor agreement with the UAW, which introduced a multi-tier wage and benefit structure and an annual profit-sharing incentive compensation plan for the hourly workforce tied to identical performance metrics as those used for the management team and salaried employees. As a result of our focus on improving our operating effectiveness and efficiency, we have been able to improve our Adjusted EBITDA margin by 560 basis points since 2008, despite experiencing one of the most severe economic downturns our industry has ever faced. We have also established a new manufacturing facility in Chennai, India in 2010 and expect to complete another facility in Szentgotthard, Hungary in 2011, both of which will provide access to low-cost manufacturing and a geographic presence to support our growth efforts in emerging markets. As we execute our growth strategy, we believe our strong operating leverage will position us for significant earnings growth and cash flow generation.

### **Our Industry**

Commercial vehicles typically employ one of three transmission types: manual, AMT or fully-automatic. Manual transmissions are the most prevalent transmission type used in Class 8 tractors in North America and in medium- and heavy-duty commercial vehicles, generally, outside North America. Manual transmissions utilize a disconnect clutch causing power to be interrupted during each gear shift resulting in energy loss-related inefficiencies and less work being accomplished for a given amount of fuel consumed. In long-distance trucking, this power interruption is not a significant factor, as the manual transmission provides its highest degree of fuel economy during steady-state cruising. However, when the duty cycle requires a high degree of “start and stop” activity, as is common in many vocations as well as in urban environments, manual transmissions result in reduced performance, lower fuel efficiency, lower average speed for a given amount of fuel consumed and inferior ride quality. Moreover, the clutches must be replaced regularly, resulting in increased maintenance expense and vehicle downtime. Manual transmissions also require a skilled driver to operate the disconnect clutch when launching the vehicle and shifting gears. AMTs are manual transmissions that feature automated operation of the disconnect clutch. Fully-automatic transmissions utilize technology that smoothly shifts gears instead of a disconnect clutch, thereby delivering uninterrupted power to the wheels during gear shifts and requiring minimal driver input. These transmissions deliver superior acceleration, higher productivity, increased fuel efficiency, reduced operating costs, less driveline shock and smoother shifting relative to both manual transmissions and AMTs. Historically, end users have exhibited a willingness to pay a meaningful premium for the performance, efficiency, comfort and convenience provided by fully-automatic transmissions.

We believe fuel efficiency, the measure of work performed for a given amount of fuel consumed, is the best method to assess fuel consumption of commercial vehicles as compared to the more commonly-used metric of fuel economy miles-per-gallon, or MPG. MPG is inadequate for commercial vehicles because it does not encompass two key elements of efficiency that we believe are important to vehicle owners and operators: payload and transport time.

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For example, if more work can be completed or more payload hauled using the same amount of fuel or over a shorter period of time, then we believe the vehicle is more fuel efficient.

Since fuel economy and its MPG metric only accounts for distance traveled and fuel consumed, ignoring time and work performed, it is therefore an inferior metric to fuel efficiency when it comes to assessing commercial vehicles.

### Our Served Markets

We sell our transmissions globally for use in medium- and heavy-duty on-highway commercial vehicles (with limited exposure to the Class 8 tractor market), off-highway vehicles and equipment and military vehicles. In addition to the sale of transmissions, we also sell branded replacement parts, support equipment and other products necessary to service the installed base of vehicles utilizing our transmissions. The following table provides a summary of our business by end market, for the fiscal year ended December 31, 2010.

END MARKET	NORTH AMERICA			OUTSIDE NORTH AMERICA	MILITARY	SERVICE PARTS, SUPPORT EQUIPMENT & OTHER
	ON-HIGHWAY	HYBRID TRANSIT BUS	OFF-HIGHWAY			
2010 NET SALES (IN MILLIONS)	\$580	\$156	\$120	\$288	\$449	\$333
% OF TOTAL	31%	8%	6%	15%	23%	17%
MARKET POSITION	<ul style="list-style-type: none"> <li>• #1 supplier of fully-automatic transmissions</li> </ul>	<ul style="list-style-type: none"> <li>• #1 supplier of hybrid-propulsion systems</li> </ul>	<ul style="list-style-type: none"> <li>• A leading independent supplier</li> </ul>	<ul style="list-style-type: none"> <li>• #1 supplier of fully-automatic transmissions in China and India</li> <li>• Established presence in Western Europe</li> </ul>	<ul style="list-style-type: none"> <li>• #1 supplier of transmissions to the U.S. military</li> </ul>	<ul style="list-style-type: none"> <li>• Approximately 1,500 dealers and distributors worldwide</li> </ul>
VOCATIONS OR END USE	<ul style="list-style-type: none"> <li>• Distribution</li> <li>• Emergency</li> <li>• Refuse</li> <li>• Construction</li> <li>• Utility</li> <li>• School, transit, shuttle and coach buses</li> <li>• Motorhome</li> </ul>	<ul style="list-style-type: none"> <li>• Hybrid transit bus</li> <li>• Hybrid shuttle bus</li> </ul>	<ul style="list-style-type: none"> <li>• Energy</li> <li>• Mining</li> <li>• Construction</li> <li>• Specialty vehicle</li> </ul>	<ul style="list-style-type: none"> <li>• Transit bus</li> <li>• On-highway trucks</li> <li>• Off-highway vehicles and equipment</li> </ul>	<ul style="list-style-type: none"> <li>• Medium- and heavy-tactical wheeled platforms</li> <li>• Tracked combat platforms</li> </ul>	<ul style="list-style-type: none"> <li>• Parts</li> <li>• Support equipment</li> <li>• Remanufactured transmissions</li> <li>• Fluids</li> </ul>

For the years ended December 31, 2010, 2009 and 2008, our top five OEM customers accounted for approximately 41%, 43% and 41% of our net sales, respectively. Our top two OEM customers, Navistar and Daimler, each accounted for approximately 10% of our net sales in 2010.

We anticipate a number of trends will impact demand for our transmissions in our industry. For example, we expect the recovery of medium- and heavy-duty commercial vehicle demand in developed markets will result in increased production volumes, which we believe is supported by pent up demand from deferred purchases during the economic downturn. In addition, we anticipate growth in commercial vehicle demand in key emerging markets supported by broad macroeconomic trends. We also expect customers to continue to adopt fully-automatic transmissions in medium- and heavy-duty commercial vehicles in both developed and emerging markets. We anticipate accelerating demand for fuel efficient technologies in response to rising fuel prices, greater demand for hybrid-propulsion products in response to changes in global regulations and an increased focus on fuel efficiency. We also expect increased demand for capital equipment utilizing our off highway transmissions as a result of rising demand for commodities and energy.

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Governments are mandating restrictions on emissions that lead to vehicle system changes. New emission standards increase overall vehicle cost relating to pollutant-reducing systems. The emission standards and resultant compliance costs create uncertainty among vehicle owners about the quality, fuel efficiency and maintenance needs of the new engines. In anticipation of an emission regulation change, commercial vehicle buyers may “pre-buy” vehicles with prior-year emissions compliant engines in the year preceding the regulation change. The act of pre-buying causes irregularity in transmission purchase patterns and creates forecasting challenges. In North America, a reduction in permitted emissions came into effect in January 2007, which resulted in a significant vehicle pre-buy in 2006. Another tightening of emission standards took place in January 2010, which resulted in a significantly smaller vehicle pre-buy in 2009. More emissions regulation is expected in 2013. Generally, the degree of pre-buy in any end market directly correlates with the weight class of the commercial vehicle because the heavier the vehicle, the greater the cost to a buyer of complying with these new emission standards. Outside North America, engine emission level compliance varies by the levels established by European Union regulations. As countries change from one emission level to the next, OEMs must change their powertrain configurations and validate the resulting combinations. OEMs have cadenced their vehicle releases and product upgrades to incorporate emissions compliant improvements as they evolve and are regionally deployed. Supply agreements with key OEMs enhance our position with those OEMs as they adjust their products to comply with new regulations.

### **North America**

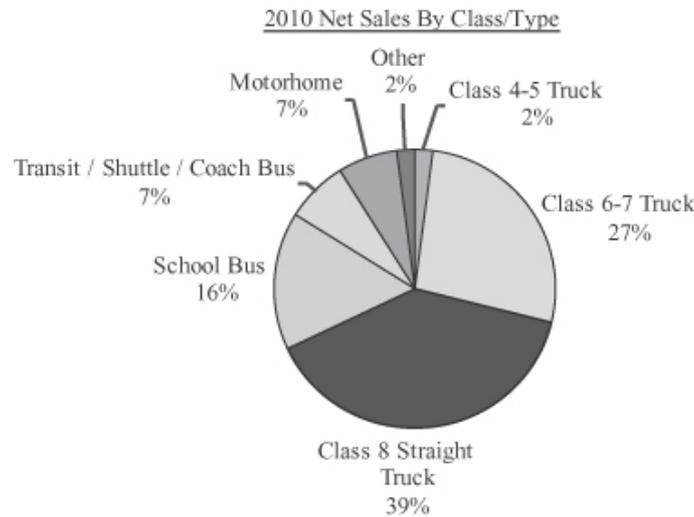
We are the largest manufacturer of fully-automatic transmissions for the on-highway medium- and heavy-duty commercial vehicle market in North America. Our core markets are those in which the value proposition of a fully-automatic transmission to end users is highest, typically where the vehicle is operated with a high degree of “start and stop” activity. We believe end user preferences for superior acceleration, higher productivity, increased fuel efficiency, reduced operating costs, less driveline shock and smoother shifting relative to both manual transmissions and AMTs results in a willingness to pay a meaningful premium for the attributes of our fully-automatic transmissions. Overall, we believe the demand for on-highway fully-automatic transmissions in our core markets is increasing in North America.

Our core North American on-highway market includes Class 4-5, Class 6-7 and Class 8 straight trucks, conventional transit, shuttle and coach buses, school buses and motorhomes. Class 8 trucks are subdivided into two markets: straight and tractor. Class 8 straight trucks are those with a unified body (e.g., refuse, construction, and dump trucks), while tractors have a vehicle chassis that is separable from the trailer they haul. We have been supplying transmissions for Class 8 straight trucks for decades and it is a core end market for us. Today, we have very limited exposure to the Class 8 tractor market because lower priced manual transmissions generally meet the needs of these vehicles which are primarily used in long distance hauling. However, we have identified a portion of the Class 8 tractor market that we call metro tractors that are used primarily in urban environments more than 60% of the time. We are currently developing a new fully-automatic transmission that meets the unique duty cycle requirements of the Class 8 metro tractor market and believe this represents a significant growth opportunity.

We sell substantially all of our transmissions in the North American on-highway market to OEMs, including Blue Bird, Daimler, Hino, Navistar, PACCAR, Spartan Motors, Inc., Volvo and many others. These OEMs, in turn, install our transmissions in vehicles in which our transmission is either the exclusive transmission available or is specifically requested by end users who are choosing between a manual transmission, an AMT or a fully-automatic transmission. OEM customers representing over 78% of our 2010 North American on-highway unit volume participate in long-term supply agreements with us. Generally, these supply agreements offer the OEM customer defined levels of mutual commitment with respect to growing Allison’s presence in the OEMs’ products and promotional efforts, pricing and sharing of commodity cost risk. The typical length of our customer agreements is five years. We often compete in this market against independent manufacturers of manual transmissions and AMTs, and, to a lesser extent, against OEMs in certain weight classes that use their own internally manufactured transmissions in certain vehicles. For example, Ford Motor Company, or Ford, offers its own fully-automatic transmission in its Class 4-5 vehicles in North America, though we supply Ford with our fully-automatic transmissions for their Class 6-7 trucks.

**On-Highway**

The following is a summary of our on-highway net sales by vehicle class in North America.



**Class 4-5 Trucks.** Class 4-5 trucks are generally used in urban applications, including distribution, commercial lease and rental, as well as ambulance. The primary demand drivers impacting the purchase of these trucks are economic factors, such as gross domestic product growth, industrial activity and fuel costs, as well as government spending.

The largest Class 4-5 truck OEM is Ford, which offers its own transmission in these vehicles. Until 2009, Ford and General Motors were the largest OEMs in this end market with a combined market share of 88% in 2008, but General Motors exited the medium-duty truck market after emerging from bankruptcy. Since Ford uses its own fully-automatic transmission in this vehicle class, General Motors' departure from this market resulted in a decline in our sales of fully-automatic transmissions for use in the Class 4-5 truck market, which we had served almost exclusively through General Motors. To partially offset the loss of General Motors' presence in this market, we are the exclusive transmission supplier to the new Navistar Class 4-5 TerraStar truck specifically targeted at this end market. We also intend to pursue business with other OEMs, should they choose to participate in this end market.

**Class 6-7 Trucks.** Class 6-7 trucks are generally used in urban applications, including larger distribution, commercial lease and rental, ambulance, rescue and fire trucks. While demand drivers for the Class 6-7 truck end market are generally similar to those of the Class 4-5 truck end market, economic and pre-buy volatility are higher in these classes. The largest OEMs in this end market are Navistar, Daimler, Ford, Hino and PACCAR. Our overall penetration of the Class 6-7 truck transmission end market was approximately 69% in 2010, and we supply virtually all of the fully-automatic transmissions sold in this end market. In this market, we compete primarily with manual transmissions and AMTs manufactured by Eaton Corp., or Eaton.

**Class 8 Straight Trucks.** The most common vocations that utilize straight trucks are refuse, construction, fire and emergency. Primary drivers of Class 8 straight truck demand are general economic conditions and federal, state and municipal spending, which affect the purchases of many fire and emergency trucks, refuse vehicles and construction vehicles, and the purchases of other private refuse fleet operators. The largest Class 8 straight truck OEMs are Navistar, Daimler, PACCAR and Volvo. In 2010, our overall penetration of the Class 8 straight truck transmission end market was approximately 58%, and we supply virtually all of the fully-automatic transmissions sold in this end market. In this market, we compete primarily with manual transmissions and AMTs manufactured by Eaton.

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**Buses.** School buses have historically comprised approximately 75% of the North American bus market by volume. While school buses vary in weight and engine size, the majority of our transmissions are used in Class 6-7 buses. The primary demand driver for school bus purchases is municipal spending, specifically school district budgets and the capital expenditure plans of private fleet operators. School bus demand is also affected by the number of school-age children, which is driven by birth rates and immigration. The demand in this end market has generally been stable, although it does experience declines during economic downturns as municipalities defer purchases. The largest school bus OEMs are Navistar, Daimler and Blue Bird. We supply our transmissions for virtually all of the school buses produced in North America and currently face little competition from other suppliers to this end market. The bus market also encompasses non-hybrid transit and conventional coach and shuttle buses. We have the leading market share in the non-hybrid transit bus market, where we primarily compete against Voith GmbH, or Voith and ZF Friedrichshafen AG, or ZF.

**Motorhomes.** We sell our transmissions for use primarily in larger motorhomes (Type A). Substantially all of the Type A motorhomes used fully-automatic transmissions in this market in 2010. The motorhome market was severely impacted by the recent economic downturn with volumes declining 60% from 2007 to 2010. We expect motorhome demand will benefit from improving economic conditions, increased availability of credit and favorable demographic trends such as the aging of “baby boomers.” We typically sell to the chassis manufacturers, such as Navistar and Daimler, that supply body manufacturers, such as Thor Industries, Winnebago Industries, Inc. and Fleetwood RV, Inc. We had approximately 51% share of the fully-automatic transmissions used in Type A diesel and gasoline powered motorhomes and substantially all of the share of the fully-automatic transmissions sold in Type A diesel powered motorhomes. In this market, we compete primarily with Ford, who uses its own internally-produced transmission in the lighter-duty motorhomes.

### **Hybrid Transit Buses**

The global interest in conserving fuel and reducing greenhouse gas emissions is driving demand for more fuel efficient commercial vehicles. As of December 31, 2010, we have delivered over 4,000 H 40/50 EP hybrid-propulsion transit bus systems globally to 178 cities in 9 countries, making us the world’s largest supplier of the hybrid-propulsion transit bus systems. In North America, we sold approximately 70% of all units for the hybrid transit bus market in 2010. Our customers in this end market are typically city, state and federal governmental entities, which utilize government funds to subsidize a portion of the purchase price for the transit buses containing our hybrid-propulsion system. In this market, we compete primarily with BAE.

### **Off-Highway**

We have provided products used in vehicles and equipment that serve energy, mining and construction applications for over 50 years.

Off-highway energy applications include well-stimulation equipment, pumping equipment, and well-servicing rigs, which often use a fully-automatic transmission to propel the vehicle and drive auxiliary equipment. We maintain a leadership position in this end market, with nearly all producers of well stimulation and well servicing equipment utilizing our heavy-duty off-highway transmissions. Customers include Halliburton Company, BJ Services Company, Weatherford International Ltd., National Oilwell Varco, Inc., and Key Energy Services, Inc. For example, new methods of extracting oil and natural gas from shale formations have driven considerable demand for oil field equipment, which utilize highly engineered heavy-duty fully-automatic transmissions. Competition in both the well stimulation and well servicing markets comes primarily from Caterpillar Inc., or Caterpillar and Twin Disc, Incorporated.

We also provide heavy-duty transmissions used in mining trucks and other specialty vehicles. Mining applications include trucks used to haul various commodities and other products, including rigid dump trucks, underground trucks and long-haul tractor trailer trucks with load capacities between 40 to 110 tons. Our major competitors in this end market are Caterpillar and Komatsu, Ltd., or Komatsu, both of which are vertically integrated and manufacture fully-automatic transmissions for their own vehicles. Specialty vehicles using our heavy-duty transmissions include airport rescue and firefighting vehicles and heavy-equipment transporters.

## Outside North America

We are the largest global manufacturer of fully-automatic transmissions for the commercial vehicle market outside of North America. The following is a summary of our net sales by region outside of North America.



While the use of fully-automatic transmissions in the medium- and heavy-duty commercial vehicle market has been widely accepted in North America, the markets outside North America continue to be dominated by manual transmissions. In 2010, fully-automatic transmission-equipped medium- and heavy-duty commercial vehicles represented less than 5% of the markets outside North America and are concentrated in certain vocational end markets. As a result, we believe we have attractive opportunities for global expansion for our fully-automatic transmissions as end users increasingly recognize the benefits that result from the use of our products.

**Europe, Middle East, Africa.** The Europe, Middle East, Africa region, or EMEA, is composed of several different markets, each of which differs significantly from our core North American market by the degree of market maturity, sophistication and acceptance of fully-automatic transmission technology.

Within Europe, we serve Western European developed markets, as well as Russian and Eastern European emerging markets. Our key on-highway customers in these markets are Daimler, Iveco, Scania, and Volvo. Fully-automatic transmission technology has an approximately 5% market share in European truck applications. We lead this end market with an approximate 67% share of the fully-automatic transmissions sold in 2010. Transit bus transmission sales are more evenly divided between manual and fully-automatic transmissions. However, we face strong competition from European-based bus-focused competitors in this market such as ZF and Voith. Europe is most notably characterized by a high level of vertical powertrain integration with OEMs such as Daimler, Scania and Volvo, often utilizing their own manual transmissions and AMTs in their vehicles. These OEMs have not generally elected to manufacture fully-automatic commercial vehicle transmissions. We believe they have not done so due to the large initial investment required that would be amortized over a limited number of medium and heavy-duty commercial vehicles utilizing fully-automatic transmissions in their European market. The Middle East and Africa regions are generally characterized by very limited local vehicle production, with imports from the U.S., South America, Turkey, China, India and Europe accounting for the majority of vehicles.

Although we have low market penetration today, we supply transmissions to all major European OEMs. We have targeted specific vocations in EMEA that we believe benefit from our value proposition. For example, we are the exclusive transmission in refuse chassis with Daimler, Dennis Eagle and Renault SA. We also supply mining OEMs such as Atlas Copco UK Holdings Ltd., Perlini Equipment, Sandvik AB and Terex. Our major off-highway competitors are Caterpillar and Komatsu, both of which are vertically integrated manufacturers of off-highway mining vehicles, including the specific fully-automatic transmission used in their mining trucks.

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**Asia-Pacific.** Currently, manual transmissions are the predominant transmissions used in commercial vehicles in the Asia-Pacific region. We believe we are well-positioned to capitalize on anticipated growth in this region because of our transmissions' established reputation for performance and durability, as well as our distributor and dealer network presence in most of the key Asia-Pacific markets, particularly in China, where commercial truck sales continue to grow as significant investment is being made in the infrastructure.

In China, our largest growth market, we are the leading provider of fully-automatic commercial vehicle transmissions with a substantial installed base of over 30,000 Allison transmissions, including 21,000 units in transit buses, operated by 72 different bus fleets in 48 cities as of December 31, 2010. Our success in penetrating the domestic commercial vehicle OEMs combined with the value of our fully-automatic transmissions have generated a significant growth opportunity for us as Chinese OEMs have begun to export products. For example, we have grown significantly in commercial vehicles used to transport cargo at shipping ports (dock spotters) in China, increasing our share from essentially 0% in 2004 to virtually 100% in 2010. In targeted vocations such as fire and emergency, construction and specialty vehicles (e.g. crane carriers), we have increased the number of vehicle configurations in which our transmissions are available from 17 in 2008 to 53 in 2010. Specifically, in 2010, we increased our availability in heavy duty mining and construction dump trucks by 13 vehicle configurations and our transmissions are now offered by all major Chinese OEMs serving this market. In 2010, we obtained the first exclusive fully-automatic transmission vehicle configuration in a Chinese fire truck that is being aggressively promoted by FAW and Allison. Our off-highway transmissions are also used in China for energy, mining and construction, by OEM customers including 4th Petroleum and Yantai Jereh Oilfield Services Group Co., Ltd. in energy applications and Qinhuangdao Tolian Speciality Transporter Co., Ltd and Sany Group Co., Ltd and North Hauler in mining and construction applications.

In addition to China, we actively participate in several other important Asia-Pacific countries. Currently, Taiwan, Indonesia, Malaysia and Thailand are primarily importers of commercial vehicles, with limited domestic manufacturing capabilities. Australia and South Korea have a few OEMs with domestic production capabilities for which we are a supplier, including Iveco, Hyundai Motor Company and Daewoo International Corporation. The distribution of our fully-automatic transmissions throughout the broader Asia-Pacific region develops end user relationships and represents an attractive growth opportunity.

The Japanese market for commercial vehicles is unique due to the country's compact size and its transportation congestion constraints, as well as a lack of an "interstate" highway system. This generally encourages the use of smaller engines and commensurately lighter-duty commercial vehicles than used in North America. Sales of fully-automatic transmissions for use in the domestic Japanese commercial vehicle market are expected to grow over the long-term as a result of the declining number of drivers in the active workforce who are trained to operate manual transmissions. Historically, the Japanese commercial vehicle fully-automatic transmission market has been served by local suppliers such as Aisin, who supplies its products predominantly for vehicles in the Class 4-5 equivalent and lighter weight categories, but through building our relationships with domestic Japanese vehicle OEMs, including Hino, Isuzu, Mitsubishi and Nissan, we are working to expand our commercial vehicle releases in the Japanese market. We recently secured an exclusive Mitsubishi bus chassis release for the domestic Japanese market and expect our market share in buses to grow. Opportunities for vehicles exported to Australia, Thailand and Indonesia, which are produced by Japanese OEMs, are improving with the Australia refuse, construction and distribution markets representing the most significant near term potential.

Competition in the Asia-Pacific region includes fully-automatic transmissions from Aisin Seiki Co., Ltd., or Aisin and JATCO Ltd for lighter-duty trucks and ZF and Voith for buses. We also face competition from the captive OEM production of manual transmissions and AMTs from companies such as Mitsubishi Fuso Truck and Bus Corporation, or Mitsubishi, Hino, Isuzu and Nissan Diesel, or Nissan. Shaanxi Fast Gear Co., Ltd., or Fast Gear, has a leading market share of the manual transmissions sold for use in the Chinese truck market, while Qijiang is the leading Chinese tour-coach manual transmission supplier. Both Fast Gear and Qijiang are seeing their market shares erode as the heavy-duty commercial truck OEMs, such as Sinotruk, manufacture both engines and manual transmissions. In the off-highway market our primary competitors are Caterpillar and Danyang Winstar Auto Parts Co., Ltd., in energy applications and vertically integrated OEMs Caterpillar and Komatsu in mining applications.

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**India.** Since 2007, we have had an established foothold in the India on-highway market, beginning with the low-floor transit bus. We have been successful in obtaining releases and generating sales in support of the desire of the Indian government to upgrade its public transportation infrastructure. Over the last few years, our presence in the bus market has grown, with Allison transmissions operating in over 15 major cities across India.

In order for us to take a more direct and proactive role in the Indian market, we opened a regional office and customization center in 2009 and a manufacturing facility in 2010. At this point, our manufacturing capabilities in India are limited to the production of certain components used in our transmissions, but we expect to have the ability to assemble finished products in India by 2012. We have also launched vehicle release programs within Indian OEMs in the truck, military and off-highway markets.

India's commercial vehicle industry is dominated by manual transmissions. We believe our opportunity for growth is strong, especially as the various Indian vocational end markets seek to upgrade and modernize their equipment to global specifications. Competition primarily comes from the locally produced manual transmissions, as well as from ZF and Voith, that compete with us predominantly in the bus market with their fully-automatic transmissions. Allison is or is expected to be offered as an option by Indian bus and truck OEMs such as Tata, Ashok Leyland, JCBL Ltd., Asia Motor Works Limited and BEML, and we expect to continue to increase our penetration in this region.

**South America.** We have a long history in South America, dating back to our initial entry into Brazil in 1975, and we continue to maintain a presence supporting OEMs such as Daimler, MAN, Navistar, Agrale S.A., Encava C.A., Scania, Iveco, Randon Veículos Ltda., Tecnologia Avanzada en Transporte S.A. and Ford. Over the past three years, the vast majority of the net sales of our products in the region were for use in buses, while on-highway and off-highway trucks accounted for a small portion of our net sales. Off-highway vehicles and equipment represent a growth opportunity due to heavy mining activity in Chile, Brazil, Colombia and Peru. The South American region is characterized by a high level of integration, with captive manual transmission and AMT manufacturing by OEMs such as Scania and Daimler.

### **Military**

We have a long-standing relationship with the U.S. military, dating back to 1945, when we developed our first-generation tank transmission. Today, we sell substantially all of the transmissions for medium- and heavy-tactical wheeled vehicle platforms including the Family of Medium Tactical Vehicles, Armored Security Vehicles, Heavy Expanded Mobility Tactical Trucks, Heavy Equipment Transporters, Palletized Loading Systems, M915 Series Trucks, Medium Tactical Vehicle Replacements and the Logistic Vehicle System Replacement. Additionally, we supply transmissions for the majority of MRAP Vehicles and the MRAP All Terrain Vehicle and for all three potential manufacturers of the Joint Light Tactical Vehicles, or JLTV. Transmissions for our wheeled vehicle platforms are typically sold to OEMs, including BAE, Daimler, General Dynamics Land Systems, Oshkosh, Navistar, Force Protection, Inc. and Textron Marine & Land Systems.

We are also the supplier on two of the three key tracked vehicle platforms, the Abrams tank and the M113 family of vehicles, which are sold directly to the U.S. military. Additionally, we sell parts kits to licensees for the production of transmissions for tracked vehicles manufactured outside North America. We have been selected as the transmission supplier for one of the prime contractors bidding the new U.S. Army ground combat vehicle. Overall, we expect the demand for U.S. military vehicles to decrease as the funding for military vehicles declines as Iraq and Afghanistan operations wind down. Additionally, DOD budgets and supplemental spending have allowed the military to recapitalize and reset many vehicle systems, which has reduced the average age of the fleet and the need to procure new vehicles.

Globally, we face competition for the supply of our transmissions in tracked military vehicles, primarily from Renk AG, L-3 Communications Corporation and ZF. Additionally, we face limited competition from Caterpillar in certain U.S. military wheeled vehicle platforms.

### **Service Parts, Support, Equipment and Other (Aftermarket)**

Aftermarket provides us with a relatively stable source of revenues as the installed base of vehicles utilizing our transmissions continues to grow. The need for replacement parts is driven by normal vehicle maintenance requirements and is not significantly impacted by economic cycles. Uninterrupted operation is generally critical for end users' profitability. End users focus on getting the vehicle back in service, which in some cases results in the aftermarket purchase decision being less price-sensitive.

The sale of Allison-branded parts and fluids, remanufactured transmissions and support equipment is fundamental to our brand promise. We have assembled a worldwide network of approximately 1,500 distributor and dealer locations to sell, service and support our transmissions. As part of our brand strategy, our independent distributors and dealers are required to sell genuine Allison-branded parts. Within the aftermarket, we offer remanufactured transmissions under our ReTran brand, which provides a cost-effective alternative for transmission repairs and replacements. We also provide support equipment to our OEMs to assist in installing new Allison transmissions into vehicles, and, therefore, sales of support equipment are dependent upon sales of new transmissions.

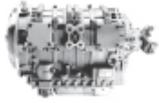
Over the last few years, our growth in traditional aftermarket sales has been tempered by improvements in product quality and durability. While traditional aftermarket sales are expected to grow, support equipment sales fluctuate with the introduction of new transmissions. The competition for service parts and ReTran remanufactured transmissions comes from a variety of smaller-scale companies sourcing non-genuine "will-fit" parts from unauthorized manufacturers. These "will-fit" parts often do not meet our product specifications, and therefore may be of lesser quality than genuine Allison parts.

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**Our Product Offering**

Allison transmissions are sold under the Allison Transmission brand name and remanufactured transmissions are sold under the ReTran brand name, which are recognized throughout the industry for delivering the combination of quality, reliability, durability, vocational value and superior customer service. We have 12 transmission product lines with over 100 different product models. Allison transmissions are included in more than 2,500 vehicle configurations that are compatible with more than 500 combinations of engine brands, models and ratings worldwide.

*On-Highway Products*

Product		Applications	
1000/2000		<ul style="list-style-type: none"> <li>■ Distribution</li> <li>■ Motorhome</li> <li>■ Services</li> </ul>	<ul style="list-style-type: none"> <li>■ Refuse</li> <li>■ School / Shuttle Bus</li> <li>■ Wheeled Military</li> <li>■ Speciality</li> </ul>
3000		<ul style="list-style-type: none"> <li>■ Construction</li> <li>■ Distribution</li> <li>■ Fire and Emergency</li> <li>■ Motorhome</li> <li>■ Wheeled Military</li> </ul>	<ul style="list-style-type: none"> <li>■ Coach and Transit Bus</li> <li>■ Refuse</li> <li>■ Speciality</li> <li>■ Services</li> </ul>
4000		<ul style="list-style-type: none"> <li>■ Construction</li> <li>■ Distribution</li> <li>■ Fire and Emergency</li> <li>■ Motorhome</li> <li>■ Wheeled Military</li> </ul>	<ul style="list-style-type: none"> <li>■ Coach and Transit Bus</li> <li>■ Refuse</li> <li>■ Speciality</li> <li>■ Articulated dump truck</li> </ul>
H 40/50 EP Drive		<ul style="list-style-type: none"> <li>■ Hybrid Bus</li> </ul>	

*Off-Highway Products*

Product		Applications
5000	6000	<ul style="list-style-type: none"> <li>■ Underground mine truck</li> <li>■ Rigid dump truck</li> <li>■ Well service rigs</li> </ul>
		
8000	9000	<ul style="list-style-type: none"> <li>■ Rigid dump truck</li> <li>■ Hydraulic fracturing equipment</li> </ul>
		

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### *Tracked Military Products*

Product	Applications
X1100 	■ Tracked Military (Abrams)
X200 	■ Tracked Military (M113 Family of Vehicles)

In addition to our current product offerings, we have various products under development, including the H 3000 and the H 4000 hybrid products designed for use in medium- and heavy-duty commercial trucks and buses and the Class 8 metro truck fully-automatic transmission.

In August 2009, our success with the hybrid-propulsion systems for transit buses helped us secure a \$62.8 million DOE cost-share grant award, which along with approximately \$85.0 million that we expect to self-fund, will be used to develop and produce another family of hybrid products, including the H 3000 and the H 4000. The first of the two new products, which are hybrid variants of our current 3000 and 4000 products for use in commercial trucks, is expected to begin production in late 2012, and the second new product is expected to begin production in 2014. The objective for this family of hybrid products is to create an improvement in fuel efficiency of 25% to 35% for a typical vehicle, dependent upon the vocation and duty cycle. The reduction in fuel consumption, while delivering the same productive work in the same amount of time, also reduces greenhouse gas emissions and reduces other air pollutants from commercial trucks. The combustion of a lower quantity of fuel within the engine also reduces the wear on the engine and the hybrid regenerative braking captures and stores deceleration energy, thereby reducing wear on the vehicle's service brakes, helping reduce vehicle maintenance and service costs.

The H 3000/4000 products will initially serve medium- and heavy-duty distribution vehicles, shuttle buses, refuse trucks and utility trucks. Given our 20 years of experience with hybrid vehicle technology, eight years production experience with the successful Allison hybrid-propulsion system for transit buses and decades of vocational truck expertise, we will be able to produce a hybrid product for the commercial truck market that we believe will provide a strong value proposition to end users relative to competing non-automatic hybrid transmission offerings.

We have also developed a fully-automatic transmission for the Class 8 metro truck market, in which we currently have a very limited presence and that accounts for approximately 30% of the Class 8 tractor market. We believe our new metro product is more fuel efficient than the incumbent manual transmissions and AMTs currently used in these vehicles, and is well suited to address end user demands in this market given the high "start and stop" frequency of the Class 8 metro truck duty cycle.

### **Product Development and Engineering**

We maintain an industry leading product development and engineering capability dedicated to the design, development, refinement and support of our fully-automatic transmissions and hybrid-propulsion systems. Our approximately 350 product development and engineering staff are distinguished by their depth of analytical skills and industry experience and significantly contribute to our product performance. With decades of experience, knowledge and expertise in our markets, we believe we have the skills to create, evolve and apply products to a

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wide variety of uses under various vocations and operating conditions. Within the product development engineering process, insights gained in one area can be leveraged across our entire portfolio.

We believe our customers expect our products to provide unparalleled performance and value defined in various ways, including delivering maximum cargo in minimum time, using the least amount of fuel possible while employing the fewest vehicles possible and experiencing maximum vehicle uptime. In response to those needs and the evolving customer focus on fuel efficiency, we provide vehicle specification guidelines, superior transmission control software and mechanical components to optimize fuel economy while delivering desired vehicle performance. Further, we are developing new technology and products to improve fuel efficiency and fuel economy by allowing engines to operate more efficiently and at lower speeds to avoid consuming fuel without compromising performance. Building on our engineering capabilities, we pioneered hybrid propulsion in commercial vehicles and are developing new hybrid variants and alternative technologies for use in our global commercial vehicle markets.

We maintain a test track on our Speedway, Indiana, campus for vehicle drive, testing and calibration activities in addition to being a demonstration venue for customers. We also lease test track facilities in New Carlisle, Indiana, and Apache Junction, Arizona, and use a leased facility in Sweden as our European demonstration site. In 2010, we hosted approximately 1,000 OEM and end user representatives at these facilities. We plan to construct a test track at our location in Hungary during 2011.

### **Sales and Marketing**

Our sales and marketing effort is organized along geographic and customer lines and is comprised of marketing, sales and service professionals, supported by application engineers worldwide. In North America, selling efforts in the on-highway end market, our largest end market, are organized by distributor area responsibility, OEM sales and national accounts, for our large end users. Outside North America, we manage our sales, marketing, service and application engineering professionals through regional areas of responsibility. These regional management teams distribute OEM service and application engineering resources globally. Since 2007, we have significantly expanded our sales and marketing teams and distribution relationships in emerging markets to capitalize on growth opportunities in these regions. We manage our military products sales, marketing, service and application engineering through an Indianapolis-based group of professionals with extensive defense industry experience.

We have developed a marketing strategy to reach OEM customers as well as end users. We target our end users primarily through marketing activities by our sales staff, who directly call end users and attend local trade shows, targeting specific vocations globally and through our plant tour program, where end users may test our products on the Speedway test track. We are creating an enhanced test track experience at our new Hungary facility, to provide our global end users an opportunity to test our products.

While our marketing management uses the term “customer” interchangeably for OEMs and end users, the primary objective of our marketing strategy is to create demand for fully-automatic transmissions through:

- OEM promotion of our products and incorporation of fully-automatic transmissions in their commercial vehicle product offerings;
- Allison representative and/or Allison distributor contact with identified, major end users; and
- our network of independent dealers who contact other end users.

The process is interactive, as Allison representatives, Allison distributors and OEM dealers educate customers and respond to the specific applications, requirements and needs of numerous specialty markets.

Similarly, we work with customers, dealers and OEMs to educate, improve and simplify how they specify vehicles and vehicle systems in order to optimize vehicle performance and fuel consumption. This instructional

initiative is known as “Science to Sales.” Our field organization also works closely with distributors who, in turn, work with dealers to provide end users with education, parts, service and warranty support. The military marketing group follows a defined plan that identifies country, vehicle and specific OEMs and then approaches the ultimate end user through a variety of channels.

## **Manufacturing**

Our manufacturing strategy provides for distributed capability in manufacturing and assembly of our products for the global commercial vehicle market. Our primary manufacturing facilities, located in Speedway, Indiana, consist of 3.2 million square feet of usable manufacturing space in seven plants. We also have established customization centers in The Netherlands, Brazil, China and India, and a parts distribution center in The Netherlands. We are further expanding our global manufacturing presence to provide access to low-cost manufacturing and a regional presence to support our emerging market growth strategy. Our facilities are designed and located globally to respond to customer orders within competitive lead times and to minimize tangible and intangible market entry costs, while taking full advantage of our global supply chain. In support of these initiatives, we recently opened a plant in Chennai, India and will complete a facility in Szentgotthard, Hungary in 2011. Our Chennai facility manufactures gear components for our global manufacturing operations and allows us to control the quality and durability of the gears, consistent with those produced in our U.S. facilities, at a lower cost. We expect this facility will assemble finished products by the end of 2012. Our new Hungarian facility will relocate our existing assembly and final test operations from a nearby General Motors plant, with which we have had a contract manufacturing arrangement, into a wholly-owned Allison plant. This facility will also be equipped to customize the units it produces to meet unique customer demands, a process formerly handled by our operations in The Netherlands. Our Chennai and Szentgotthard facilities will also provide us with a meaningful level of manufacturing redundancy for our high volume on-highway transmission products.

Our day-to-day manufacturing operations are sustained through the fundamentals of the Allison Transmission Global Manufacturing System, or GMS. This system supports five key principles to ensure the highest quality and reliable products for our customers: people involvement, standardization, built-in quality, short lead time, and continuous improvement. All on-highway products manufacturing plants embrace these concepts in total, while production areas of lower product volumes apply specific GMS concepts applicable to their operations. Each of these principles is supported by key elements that serve as criteria for process execution that ensure minimized waste within the production system.

Our high volume on-highway products are produced in multiple global locations while off-highway, hybrid-propulsion and military tracked products are produced in Indianapolis. The type of facility employed in a given area depends on regional product demand and delivery time requirements. Assemble-to-order is achieved through lean manufacturing processes with short lead times intended to respond to customer line sets in less than 10 days. GMS supports product-focused factories, which include lean-configured manufacturing cells and efficiently designed assembly lines that align with a specific product. We believe a comprehensive quality system and a regimented system structured around Kanban fundamentals are the foundation for the system’s dependability. Each factory is structured with its own dedicated leadership team. We have extensive in-house machining capabilities, significant technical expertise and advanced processes for component manufacturing and total product assembly. Manufacturing operations consist of the vast majority of machining processes utilized in the conversion of cast iron, steel and aluminum products into transmission components, as well as the heat treating facilities that exist in four of our plants.

Approximately 90% of the part numbers that make up our transmissions are purchased from outside suppliers. Based on thorough on-going analyses of our own manufacturing competencies in the context of supply base capabilities, the proportion of purchased parts has increase in our most recent product designs. This has enabled our valuable operations resources to be focused on the most complex, competitively differentiating, value-adding machining and assembly process elements at optimally efficient levels of capital expenditure.

## **Quality and Reliability**

We maintain a dedicated staff of approximately 35 full-time employees reporting to the Vice President of Quality and Reliability focused on driving quality improvements in support of Allison's products and business processes in the fulfillment of the Allison Brand Promise to deliver an unrivaled combination of quality, reliability, durability, vocational value and superior customer service. In addition to the dedicated staff there are approximately 25 salaried and 50 hourly employees dedicated to our quality system execution and reporting throughout the global Allison organization.

## **Suppliers and Raw Materials**

During 2010, we purchased over \$695.6 million of direct materials and components from outside suppliers. The largest elements of our direct spending are aluminum and steel castings and forgings that are formed by our suppliers into our larger transmission components and assemblies for use in our transmissions. However, our spending on aluminum and steel raw materials directly and indirectly through our purchase of these components constituted less than 10% of our direct material and component costs in 2010. The balance of our direct and indirect materials and components costs are primarily composed of value-added services and conversion costs. Over 80% of our supply contracts are for terms of greater than one year. Such contracts, along with an intensive supplier selection and performance monitoring process, have enabled us to establish and maintain close relationships with suppliers and have contributed to our overall operating efficiency and industry-leading quality.

## **Information Technology**

We recognize the importance of Information Technology, or IT, in the operation of our business. We utilize several industry standard IT solutions, including a centralized SAP Enterprise Resource Planning system that supports our global business operations in an integrated fashion. In addition, we have developed numerous custom applications designed to address our specific business needs. These applications are supported by a strong IT infrastructure that operates in four primary data centers (internal and external), to facilitate availability of substantially all mission-critical IT components. Our IT systems and infrastructure have recently undergone a significant expansion to enable stand alone business operations following the separation from General Motors and to support global growth and new product development.

Our Information Systems & Services, or IS&S, organization is responsible for our enterprise-wide IT environment. Our IT operations and services are based largely on a multi-vendor outsourced model with IT services contracts with numerous "tier-one" and specialized service providers. Our IS&S organization employs processes and methodologies including metrics and status reports to evaluate IT supplier performance against contractual service-level agreements.

## **Intellectual Property**

In conjunction with the sale of Allison by General Motors, we acquired an irrevocable, royalty-free, worldwide license of a large number of U.S. and foreign patents and patent applications, as well as certain unpatented technology and know-how, to manufacture, use and sell fully-automatic transmissions and certain hybrid products for use in vocational and military vehicles, and off-highway products. Such licenses are subject to certain limitations. See "Risk Factors" for a complete discussion of these risks and limitations. In addition, we acquired from General Motors an irrevocable, royalty-free, worldwide license under numerous computer software programs that we use to run our business, including product design. Allison also acquired ownership of numerous trademarks and copyrights relating to our business, subject in some cases to a non-exclusive license back to General Motors for use in connection with its existing six-speed A1000 transmission products, but only up to the termination of production of the A1000 transmission product by General Motors.

Our products are highly engineered, requiring advanced manufacturing processes and complex software algorithms for our transmission controls to maximize end user performance. We have developed over 100 different product models that are used in more than 2,500 different vehicle configurations. Our transmissions are

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compatible with more than 500 combinations of engine brands, models and ratings (including diesel, gasoline, compressed natural gas and other alternative fuels). In 2010, over 10,000 unique Allison developed calibrations were used with our transmission control modules. We believe our scale, experience and culture of innovation reinforce our leading market position and provide us with an enduring competitive advantage.

### **Seasonality**

Overall, the demand for our products is relatively consistent over the year. However, in typical market conditions, the North American truck market experiences a higher level of production in the first half of the year due to fewer holidays and the practice of plant shutdowns in July and December. However, this pattern has not always held in recent business cycles, particularly during and following an economic downturn. Working capital levels do not fluctuate significantly in the normal course for our business.

### **Employees**

As of December 31, 2010, we had approximately 2,750 employees, with more than 90% of those employees in the U.S. Approximately 60% of our U.S. employees are represented by the UAW and are subject to a collective bargaining agreement. At the time of Allison's divestiture from General Motors, we agreed to assume from General Motors the existing national and local collective bargaining agreements with the UAW. Subsequently, we negotiated a new agreement that expires in November 2012. This agreement included a multi-tier wage and benefits structure and created a profit-sharing incentive compensation plan for the UAW-represented hourly employees tied to identical performance metrics as those used for the management team and salaried employees. As 60% of our represented employees are currently retirement eligible, we anticipate a significant shift toward increasing the number of second tier employees over the coming years. In addition, our UAW-represented hourly employees have received an incentive compensation plan payout for every plan year since such program was established in 2008. There have been no strikes or work stoppages due to Allison-specific issues in over 30 years.

During the fourth quarter of 2008 and the first quarter of 2009, we began implementing expense reduction programs in an effort to better align our cost structure with decreased net sales driven by global economic conditions. The restructuring charges related to these initiatives included retirement incentive and reduction in force programs that resulted in the elimination of approximately 450 hourly and 150 salaried positions. The impact of the programs resulted in restructuring charges of approximately \$47.9 million and \$15.7 million recorded in the Consolidated Statements of Operations for the years ended December 31, 2009 and 2008, respectively.

In 2010, we increased the size of our overall hourly and salaried workforce to respond to improved global economic conditions.

### **Environmental**

We are subject to a variety of Federal, state, local and foreign environmental laws and regulations, including those governing the discharge of pollutants into the air or water, the management and disposal of hazardous substances or wastes, and the cleanup of contaminated sites. Some of our operations require environmental permits and controls to prevent and reduce air and water pollution. These permits are subject to modification, renewal and revocation by issuing authorities. We believe we are in substantial compliance with all applicable material laws and regulations in the U.S. Historically, our costs of achieving and maintaining compliance with environmental, health and safety requirements have not been material to our results.

In addition, increasing efforts globally to control emissions of carbon dioxide, methane and other greenhouse gases have the potential to impact our facilities, costs, products and customers. Pursuant to the Clean Air Act, or CAA, the EPA has recently taken action to control greenhouse gases from certain stationary and

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mobile sources. These actions include issuance of a greenhouse gas reporting rule applicable to specified stationary sources, as well as a rule requiring limits on greenhouse gas emissions for certain sources under the CAA New Source Review of Significant Deterioration and Title V Operating Permit programs. The U.S. Congress is also considering proposals to limit greenhouse gas emissions, and several states have taken steps, such as adoption of cap and trade programs or other regulatory systems, to address greenhouse gases. At the same time, opponents of greenhouse gas regulation have initiated litigation, as well as introduced legislation in Congress, to delay, limit or eliminate the EPA's, and possibly states', actions to regulate greenhouse gases. There have also been international efforts seeking legally binding reductions in emissions of greenhouse gases. These developments and further actions that may be taken in the U.S. and in other countries, states or provinces could affect our operations both positively and negatively (e.g., by affecting the demand for or suitability of some of our products). As described above, we believe increased regulation of greenhouse gases will increase demand for green technologies, including our hybrid technologies.

Also, under the Asset Purchase Agreement, General Motors agreed to indemnify us against certain environmental liabilities, including pre-acquisition offsite waste disposal from our facilities, former facilities associated with our business and any properties or facilities relating to our business that General Motors retained. General Motors also continues to perform remedial activities at our Speedway, Indiana manufacturing facilities relating to historical soil and groundwater contamination at the facilities. General Motors is performing such activities pursuant to a voluntary Corrective Action Agreement with EPA and pursuant to the Asset Purchase Agreement retained responsibility for completing all remediation activities covered by the Corrective Action Agreement. Except to the extent specifically retained by General Motors, we would be responsible for environmental liabilities that may arise at any of our properties, including with respect to contamination that may have occurred at our properties prior to the Acquisition Transaction. Additionally, there can be no assurances that General Motors will comply with its indemnity obligations or with its remedial obligations at the Speedway, Indiana facility, or that future environmental remediation obligations will not have a material adverse impact on our results.

We also may be subject to liability under the Comprehensive Environmental Response, Compensation and Liability Act and similar state or foreign laws for contaminated properties that we currently own, lease or operate or that we or our predecessors have previously owned, leased or operated, and sites to which we or our predecessors sent hazardous substances. Such liability may be joint and several so that we may be liable for more than our share of contamination, and any such liability may be determined without regard to causation or knowledge of contamination. We or our predecessors have been named potentially responsible parties at contaminated sites from time to time. We do not anticipate our liabilities relating to contaminated sites will be material to our results.

### **Competition**

We compete on the basis of product performance, quality, price, distribution capability and service in addition to other factors. We face competition from numerous manufacturers of manual transmissions, AMTs and fully-automatic transmissions for commercial vehicles. We also face competition from manufacturers in our international operations and from international manufacturers entering our domestic market. Furthermore, some of our customers are OEMs that manufacture transmissions for their own products. Despite their transmission manufacturing abilities, our existing OEM customers have chosen to purchase certain transmissions from us due to the quality, reliability and strong brand of our transmissions and in order to limit fixed costs, minimize production risks and maintain company focus on commercial vehicle design, production and marketing.

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### Properties

Our world headquarters, which we own, is located at 4700 West 10th Street, Indianapolis, Indiana 46222. As of December 31, 2010, we have a total of 17 manufacturing and certain other facilities in six countries. The following table sets forth certain information regarding these facilities.

<u>Plant</u>	<u>Location</u>	<u>Approximate Size (ft<sup>2</sup>)</u>	<u>Owned / Leased</u>	<u>Description</u>
Plant #3	Speedway	927,000	Own	Engineering, Operational Support
Plant #4	Speedway	425,900	Own	Manufacturing
Plant #6	Speedway	431,500	Own	Manufacturing
Plant #7	Speedway	391,700	Own	Operational Support
Plant #12	Indianapolis	588,000	Own	Manufacturing
Plant #14	Indianapolis	433,000	Own	Manufacturing
Plant #15	Indianapolis	126,400	Lease	Manufacturing
Plant #17	Indianapolis	389,000	Own	Parts Distribution Center
Plant #20 Tech. Center	Indianapolis	59,000	Own	Engineering & Testing
Plant #21 Tech. Center	Indianapolis	10,000	Own	Engineering & Testing
Szentgotthard	Hungary	58,000	Own(1)	Manufacturing
Sliedrecht	The Netherlands	53,800	Lease	Customization & Distribution
Shanghai	China	38,000	Lease	Customization & Distribution
Santo Amaro/Sorocabo	Brazil	31,400	Own	Customization & Distribution
Chennai	India	258,500	Own(2)	Manufacturing
Chennai	India	9,500	Lease	Customization Center
Chennai	India	3,000	Lease	Parts Distribution Center

- (1) In the fourth quarter of 2010, we entered into a new manufacturing services agreement with General Motors, which requires that we provide a facility for production of our transmissions while General Motors provides resources to manufacture these transmissions. The new facility is currently under construction with production scheduled to begin in 2011. Beneficial occupancy and the move to the new facility will be followed by reliability testing to approve operations. Plans are currently being executed to build inventory to ship to customers during the period of time the equipment is being relocated, to ensure uninterrupted flow of product to all our European customers.
- (2) The manufacturing facility in Chennai, India was completed in 2010.

We believe all our facilities are suitable for their intended purpose, are being efficiently utilized and provide adequate capacity to meet demand for the next several years. The table above does not include sales offices located in various countries.

### Litigation

During the second quarter of 2009, we identified certain differences between benefits promised under certain benefit plans and the administration of those plans. We have amended our plan documents to correct these differences and have filed a request with the Internal Revenue Service, or the IRS, to enter into a closing agreement to correct the differences retroactively to the original adoption of our benefit plans. We expect the IRS to grant this request; however, if the IRS does not grant us this request, then we would be required to accrue for and eventually pay these benefits. We estimate the cost of these benefits at approximately \$10.0 million. As of December 31, 2010, our expected liability remains approximately \$2.5 million, including potential penalties and fines.

We are subject to various other contingencies, including routine legal proceedings and claims arising out of the normal course of business. These proceedings primarily involve commercial claims, product liability claims, personal injury claims and workers' compensation claims. The outcome of these lawsuits, legal proceedings and claims cannot be predicted with certainty. Nevertheless, we believe the outcome of any of these currently existing proceedings, even if determined adversely, would not have a material adverse effect on our financial condition or results of operations.

## MANAGEMENT

### Management

The following table provides information regarding the executive officers and Board of Directors of Allison Holdings:

<u>Name</u>	<u>Age</u>	<u>Position</u>
Lawrence E. Dewey	54	Chairman, President and Chief Executive Officer
David S. Graziosi	45	Executive Vice President, Chief Financial Officer and Treasurer
Mark A. Anspach	53	Vice President, Global Procurement and Supplier Quality
Sharon L. Dean	55	Vice President, Quality and Reliability
Edward L. Dyer	61	Vice President, Military Programs
Michael G. Headly	60	Vice President, Non-NAFTA Marketing, Sales, and Service
Randall R. Kirk	55	Vice President, Product Engineering
Ryan A. Milburn	39	Vice President and Chief Information Officer
David L. Parish	60	Vice President, Operations
Robert M. Price	53	Vice President, Human Resources
Eric C. Scroggins	40	Vice President, General Counsel and Secretary
Laurie B. Tuttle	56	Vice President, Hybrid Programs
James L. Wanaselja	59	Vice President, NAFTA Marketing, Sales, and Service
Brian A. Bernasek	38	Director
Kosty Gilis	37	Director
Gregory S. Ledford	53	Director
Seth M. Mersky	51	Director
Thomas W. Rabaut	62	Director
Francis Raborn	67	Director
Richard V. Reynolds	62	Director

#### *Lawrence Dewey*

Mr. Dewey joined Allison in February 1989. Mr. Dewey currently serves as the Chairman, President and Chief Executive Officer of Allison and has served in that capacity since the sale of Allison to Carlyle and Onex in August 2007. Prior to the sale, Mr. Dewey served in various capacities at Allison, including as President of Allison, a role he assumed in 2000; worldwide Director of Marketing, Sales and Service, Managing Director of Allison Transmission Europe, B.V., based in The Netherlands; Central Region (U.S.) Sales Manager; Marketing Manager; Manager of Aftermarket Products; and Production Manager. From 2003 until 2007, concurrent with his role as President of Allison, he took on the responsibilities of Group Director of Marketing, Sales, Brand Management and Customer Support for General Motors Powertrain group. Before joining Allison, Mr. Dewey held several positions of increasing responsibility in General Motors' Diesel Equipment Division, and Rochester Products Division. He began his career in 1974 as a General Motors co-op student at General Motors Institute (now Kettering University).

The Board of Directors has concluded that Mr. Dewey should serve as a director because in addition to his demonstrated leadership skills as Chief Executive Officer and President of Allison, he brings to our Board of

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Directors experience and institutional knowledge about Allison from his 21 years of experience with our company and valuable insights on the commercial vehicle industry as a result of his 36 years of experience in the industry. Mr. Dewey is a director nominee designated by Carlyle, one of our Sponsors, pursuant to the terms of the Stockholders Agreement described under “Certain Relationships and Related Party Transactions—Amended and Restated Stockholders Agreement.”

### ***David Graziosi***

Mr. Graziosi joined Allison in November 2007 as Executive Vice President, Chief Financial Officer and Treasurer and has served in that capacity since then. Before joining Allison, between 2006 and 2007, Mr. Graziosi served as Executive Vice President and Chief Financial Officer of Covalence Specialty Materials Corporation. Prior to joining Covalence Specialty Materials Corporation, Mr. Graziosi held various positions in the industry, including as Vice President Finance Precursors and Epoxy Resins at Hexion Specialty Chemicals, Inc. from 2005 to 2006 and Executive Vice President and Chief Financial Officer at Resolution Performance Products LLC from 2004 to 2005. Prior to that, he served as Vice President and Chief Financial Officer of General Chemical Industrial Products Inc., as Finance Director of GenTek Inc., and as Internal Audit Director and Assistant Corporate Controller at Sun Chemical Group B.V. While Mr. Graziosi served as an executive officer of General Chemical Industrial Products Inc., the company filed a voluntary petition under Chapter 11 of the U.S. Bankruptcy Code in December 2003 and emerged from bankruptcy proceedings in March 2004. Mr. Graziosi is also a Certified Public Accountant and a Certified Information Systems Auditor (non-practicing).

### ***Mark Anspach***

Mr. Anspach joined Allison as Vice President, Global Procurement and Supplier Quality in October 2008 and has served in that position since then. Before joining Allison, from 2005 to 2008, Mr. Anspach served as Director Supply Chain at Raytheon Space and Airborne Systems, where his responsibilities included managing supply chain/procurement functions in the defense, telecommunications and semiconductor industries. Prior to that, he began his career with Lockheed Missiles & Space Company as a configuration engineer on ground based communications systems, joining in 1987. Mr. Anspach currently holds the rank of Colonel in the U.S. Army Reserve and serves as the Chief of Staff for the Deployment Support Command.

### ***Sharon Dean***

Ms. Dean joined Allison in June 1975. She currently serves as Vice President of Quality and Reliability, which includes responsibility for Allison Remanufacturing, and has held that position since 2007. Prior to that, from 1998 until 2007, Ms. Dean served as Director of Quality and Reliability, and from 1975 until 1998, she held various key positions in Sales/Service and Operations, including Director, Customer Support; Manager, Eastern Region (U.S.); Manager, Quality and Reliability and Manager, Product Service. Before joining Allison, Ms. Dean worked in the General Motors Assembly Division, beginning in 1973, when she joined General Motors as a General Motors Institute (now Kettering University) student, assuming full-time responsibilities after graduating in 1978.

### ***Edward Dyer***

Mr. Dyer joined Allison as Vice President, Military Programs in March 2010 and has served in that position since then. Before joining Allison, from 2001 until 2010, Mr. Dyer served as the Director of Technology at Lockheed Martin Corporation, where he managed the start up and implementation of a global defense research and engineering network, enabling real time technical collaboration and later managed a corporate Internal Research and Development program in advanced concepts. Prior to that, Mr. Dyer served on active duty in the U.S. Army for 29 years, during which time, he commanded tank and infantry units at every level from platoon to Division, including command of a tank battalion during the first Gulf War. In addition, he served on several senior staffs, including the U.S. Army Staff and Joint Chiefs of Staff where he was in charge of crisis planning and ran the National Military Command Center.

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### ***Michael Headly***

Mr. Headly joined Allison in November 1988. He currently serves as Vice President, Non-NAFTA Marketing, Sales and Service, a position he has held since 2007. Prior to that, from 2003 until 2007, Mr. Headly was responsible for General Motors Powertrain's non-allied sales/ application engineering and powertrain marketing and from 2000 until 2003, he was responsible for our military programs as well as the Business Planning activity in 2003. From 1997 until 2000, Mr. Headly served as Managing Director, Allison Transmission Europe, where he assumed a broader role in management of our international business, assuming responsibility for the Asia Pacific region in 1998 and the South American region in 1999. Before that, from 1988 until 1997, Mr. Headly held a wide variety of military and commercial positions focused both on NAFTA and Non-NAFTA markets. Prior to joining Allison, Mr. Headly worked in General Motors' Military Vehicle Operation in Detroit as the Manager of New Business Development.

### ***Randall Kirk***

Mr. Kirk joined Allison in May 1976. He currently serves as Vice President of Product Engineering, a position he has held since 2009. Prior to that, from 2007 until 2009, Mr. Kirk served as Executive Director of the Transition Program Manager Office, leading a cross-functional team with responsibilities for the separation from General Motors, and from 2001 until 2007, he served as Director of Customer Support in Marketing Sales and Service. From 1997 until 2001, Mr. Kirk assumed the responsibilities of Product Team Leader for several product lines. Prior to that, he served in a number of roles with increasing responsibility in the Operations and Quality organizations, including Supervisor, General Supervisor, Production Superintendent, Quality/Reliability Manager, a dual role as Manager of Manufacturing Engineering and Quality and Divisional Program Manager.

### ***Ryan Milburn***

Mr. Milburn joined Allison in June 1990. He currently serves as Vice President and Chief Information Officer, a position that he has held since 2007 and where he is responsible for all aspects of Allison's Information Technology Systems, infrastructure and services. Prior to that from 2003 to 2007, Mr. Milburn served as Chief Information Officer, and from 2002 to 2003, he held the positions of Manager of Engineering & Product Development Systems. Prior to that, he served as Manager of Information & Control Systems and part of the leadership team responsible for the launch and operations of the green-field General Motors (formerly Allison) manufacturing facility in Baltimore, Maryland. Before joining the Information Technology organization, he performed various manufacturing automation and machine controls engineering roles of increasing responsibility in the manufacturing organization.

### ***David Parish***

Mr. Parish began his career with Allison in August 1977. He currently serves as Vice President, Operations, a position that he has held since 2007 and where he is responsible for global plant operations, service parts operations, supply chain facilities, environmental, and manufacturing engineering. In his current position, Mr. Parish has facilitated the growth of Allison's global footprint through the construction of new facilities in India and Hungary. From 2006 to 2007, Mr. Parish served as Assistant General Director of Operations and General Director of Operations, and from 1997 to 2006, he was responsible for directing the Manufacturing Engineering and Manufacturing Services organization. Prior to that, Mr. Parish held various positions at Allison, including as Director, Manufacturing Engineering and Plant Manager for the heavy-duty commercial and military products. Prior to that, he held multiple positions in manufacturing at Allison, including industrial engineering, manufacturing engineering, production management, quality, and reliability.

### ***Robert Price***

Mr. Price joined Allison in May 2000. He currently serves as Vice President, Human Resources, a position he has held since 2007. From 2004 to 2007, Mr. Price served as Personnel Director, and from 2000 until 2004, he

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served as Director, Labor Relations. Before joining Allison, from 1997 to 2000, Mr. Price served as Director, Contract Administration for General Motors of Canada, which he assumed in 1993, when he served as Divisional Labor Relations Administrator at the General Motors Canadian headquarters. From 1988 until 1993, Mr. Price held the position of Supervisor, Labor Relations in the HR group at General Motors, and from 1985 to 1988, he served as Labor Relations Representative in the same group. Before working in the HR group, Mr. Price worked at General Motors as a Production Supervisor, and from 1978 until 1982, Mr. Price held a variety of positions in the HR function, including employment, security, health and safety and workers compensation at the General Motors Windsor Transmission Plant.

### ***Eric Scroggins***

Mr. Scroggins joined Allison as Vice President, General Counsel and Secretary in December 2007 and has served in that position since then. He is responsible for advising the Board and leadership team on legal and business matters, managing our legal affairs and overseeing our Office of Export Compliance and Government & Community Relations. Prior to joining Allison, Mr. Scroggins served as General Counsel for Product Action International, LLC from 2006 until 2007, and was an attorney with the law firm of Ice Miller LLP from 2001 to 2006. Prior to joining Ice Miller LLP, Mr. Scroggins worked for the State of Indiana, serving in various roles with the Indiana State Personnel Department, including as Deputy Director of the Indiana State Personnel Department.

### ***Laurie Tuttle***

Ms. Tuttle joined Allison in January 1986. She currently serves as Vice President, Hybrid Programs, a position she has held since 2009. Prior to her current position, Ms. Tuttle served as Vice President, Product Engineering beginning in 2007, and from 2003 until 2007, she held the position of Engineering Director. Prior to that, Ms. Tuttle held a variety of management and executive positions of increasing responsibility in engineering, program management and product assurance engineering, including Program Director Light Commercial Transmission. Prior to joining Allison, she held positions in General Motors' Detroit Diesel Allison Division from 1978 until 1986, including as a diesel engine test engineer, a design engineer and a Product Engineering Design Group Supervisor.

### ***James Wanaselja***

Mr. Wanaselja joined Allison in April 1995. He currently serves as Vice President, NAFTA Marketing, Sales and Service, a position he has held since 2007. Prior to that, from November 2000 until 2007, Mr. Wanaselja served as Director, NAFTA Marketing, Sales and Service and Global Business Systems, and from May 2000 until November 2000, he served as Director, NAFTA Sales. From 1998 until May 2000, Mr. Wanaselja assumed responsibility for our marketing and OEM sales, and from 1995 until 1998, he served as Manager, National Accounts. Prior to joining Allison Transmission, Mr. Wanaselja worked for Voith Transmission, Inc., where he held numerous positions, including Vice President, Product Manager On-Highway Transmissions and General Manager for the North American Voith On-Highway Products Division from 1982 through 1995. Prior to joining Voith Transmission, Inc., Mr. Wanaselja began his career with General Electric in 1974, completing the General Electric Technical Marketing Program and holding various positions there.

### ***Brian Bernasek***

Mr. Bernasek has served as a director of Allison Holdings since August 2007. He is currently a Managing Director of Carlyle, where he focuses on investment opportunities in the industrial and transportation sectors. Prior to joining Carlyle in 2000, he held positions with Investcorp International, a private equity firm, and Morgan Stanley & Co., in its Investment Banking Division. Mr. Bernasek currently serves on the Board of Directors of Hertz Global Holdings, Inc.

The Board of Directors has concluded that Mr. Bernasek should serve as a director because in addition to his demonstrated leadership skills as a Managing Director of Carlyle and his extensive experience in investment

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banking and private equity, he brings to our Board of Directors knowledge of complex financial and investment issues and valuable insights on the commercial vehicle industry as a result of his current and past service on boards of industrial and transportation related companies. Mr. Bernasek is a director nominee designated by Carlyle, one of our Sponsors, pursuant to the terms of the Stockholders Agreement described under “Certain Relationships and Related Party Transactions — Amended and Restated Stockholders Agreement.”

### ***Kosty Gilis***

Mr. Gilis has served as a director of Allison Holdings since August 2007. He currently serves as a Managing Director of Onex, where he focuses on investment opportunities in the industrial products and business services sectors. Prior to joining Onex in 2004, he was a Vice President at Willis Stein & Partners, a Chicago-based private equity firm, and before that, Mr. Gilis served as a management consultant at Bain & Company in their Toronto, Canada and Johannesburg, South Africa offices. Mr. Gilis currently serves on the Board of Directors of Gates Corporation and Tomkins Building Products Inc.

The Board of Directors has concluded that Mr. Gilis should serve as a director because in addition to his demonstrated leadership as a Managing Director of Onex and his extensive experience in private equity, he brings to our Board of Directors knowledge of complex financial and investment issues as well as insights on the commercial vehicle industry. As a result of serving on the Boards of Directors of Gates Corporation and Tomkins Building Products Inc., Mr. Gilis brings to our Board of Directors valuable knowledge of operations, financial, corporate governance, and operations of other companies. Mr. Gilis is a director nominee designated by Onex, one of our Sponsors, pursuant to the terms of the Stockholders Agreement described under “Certain Relationships and Related Party Transactions — Amended and Restated Stockholders Agreement.”

### ***Gregory Ledford***

Mr. Ledford has served as a director of Allison Holdings since August 2007. He currently serves as a Managing Director of Carlyle and as head of the firm’s Industrial and Transportation practice. Since joining Carlyle in 1988, Mr. Ledford has held various positions, including serving as Chairman and Chief Executive Officer of The Reilly Corp., a former Carlyle portfolio company, from 1991 to 1997. Prior to joining Carlyle, Mr. Ledford was Director of Capital Leasing for MCI Communications. He currently serves on the Board of Directors of Hertz Global Holdings, Inc.

The Board of Directors has concluded that Mr. Ledford should serve as a director because in addition to his demonstrated leadership and consensus building skills as Managing Director of Carlyle and his service as a director on a number of commercial vehicle industry boards, his years of experience in industrial-related positions provides our Board of Directors with valuable insights and a unique perspective on industrial and transportation related issues. Mr. Ledford is a director nominee designated by Carlyle, one of our Sponsors, pursuant to the terms of the Stockholders Agreement described under “Certain Relationships and Related Party Transactions — Amended and Restated Stockholders Agreement.”

### ***Seth Mersky***

Mr. Mersky has served as a director of Allison Holdings since August 2007. He currently serves as a Managing Director of Onex where he has worked since 1997, focusing on investment opportunities across the industrial sector. Prior to joining Onex in 1997, he served as Senior Vice President, Corporate Banking with The Bank of Nova Scotia for 13 years, and before that, Mr. Mersky worked for Exxon Corporation as a Tax Accountant. Mr. Mersky currently serves on the Board of Directors of Gates Corporation, SITEL Worldwide Corporation and Hawker Beechcraft Acquisition Company, LLC. He previously served on the Board of Directors of Spirit AeroSystems, Inc.

The Board of Directors has concluded that Mr. Mersky should serve as a director because in addition to his demonstrated leadership as a Managing Director of Onex, he has gained significant experience related to private and public company matters. As a result of his current and past board experience, Mr. Mersky brings to our

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Board of Directors valuable knowledge of operations, financial, corporate governance, compensation programs and operations of other companies. Mr. Mersky is a director nominee designated by Onex, one of our Sponsors, pursuant to the terms of the Stockholders Agreement described under “Certain Relationships and Related Party Transactions — Amended and Restated Stockholders Agreement.”

### ***Thomas Rabaut***

Mr. Rabaut has served as a director of Allison Holdings since August 2007. He currently serves as a Senior Advisor to the Aerospace, Defense and Business/Government Services Group of Carlyle and has held that position since 2007. Prior to joining Carlyle in 2007, Mr. Rabaut served as President of the Land & Armaments Operating Group of BAE, a global leader in the design, development and production of military systems from 2005 to 2007, and as President and Chief Executive Officer of United Defense Industries, Inc., a former Carlyle portfolio company that was acquired by BAE in 2005, from 1994 to 2005. Prior to his tenure at United Defense Industries, Inc., Mr. Rabaut served 17 years in various roles at FMC Corporation where he ultimately became Vice President and General Manager of the Defense Systems Group. He also served five years in the U.S. Army. He currently serves on the Board of Directors of CYTEC Industries Inc., and the KAMAN Corporation.

The Board of Directors has concluded that Mr. Rabaut should serve as a director because in addition to his extensive senior executive leadership experience in the defense industry and his current role as senior advisor with Carlyle, he brings to our Board of Directors his knowledge and insight into providing products and services to the U.S. government. Mr. Rabaut’s professional and board experience provides our Board of Directors with additional perspectives about the defense markets, international markets, commercial acquisitions as well as market and sales trends. Mr. Rabaut is a director nominee designated by Carlyle, one of our Sponsors, pursuant to the terms of the Stockholders Agreement described under “Certain Relationships and Related Party Transactions — Amended and Restated Stockholders Agreement.”

### ***Francis Raborn***

Mr. Raborn has served as a director of Allison Holdings since August 2007. Until his retirement in 2005, Mr. Raborn served as Vice President and Chief Financial Officer of United Defense Industries, Inc. from its formation in 1994, and as a director since 1997. Mr. Raborn joined FMC Corporation, the predecessor of United Defense Industries, Inc., in 1977 and held a variety of financial and accounting positions, including Controller of the Defense Systems Group from 1985 to 1993, and Controller of the Special Products Group from 1979 to 1985. Prior to his tenure at FMC Corporation, Mr. Raborn worked for Chemetron Corporation and Ford Motor Company. Mr. Raborn currently serves on the Board of Directors of Spirit AeroSystems, Inc.

The Board of Directors has concluded that Mr. Raborn should serve as a director because, as a result of his senior financial and accounting positions at FMC Corporation and United Defense Industries, Inc. and his position as the Chairman of Spirit AeroSystems, Inc.’s audit committee, he brings with him significant experience in finance, accounting, defense, production and manufacturing. Mr. Raborn also brings to our Board of Directors valuable knowledge of operations, financial, corporate governance, compensation programs, and operations of other companies gained from his previous service on the Board of Directors of other public and private companies. Mr. Raborn is an independent director appointed pursuant to the terms of our Security Control Agreement.

### ***Richard Reynolds***

Lieutenant General (retired) Reynolds has served as a director of Allison Holdings since November 2010. He is currently the owner of The VanFleet Group LLC, an aerospace consulting company and has served in that capacity since 2005. General Reynolds also served as Senior Manager/Senior Business Advisor of Bearing Point, Inc., an international management and technology consulting firm, from 2005 to 2008. He retired from the U.S. Air Force in 2005, after 34 years of active duty, where he served as a combat ready pilot, experimental test pilot,

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and program manager. While on active duty, General Reynolds commanded the Aeronautical Systems Center at Wright-Patterson Air Force Base, Ohio and the Air Force Flight Test Center at Edwards Air Force Base, California. He also served as Program Executive Officer, Airlift and Trainers in the Pentagon, and was Program Director for the B-2 Spirit. He currently serves on the Board of Directors of Air Force Museum Foundation, Inc., Apogee Enterprises, Inc. (Audit Committee), Barco Federal Systems, LLC and GE Rolls-Royce Fighter Engine Team.

The Board of Directors has concluded that Mr. Reynolds should serve as a director because, as a result of his service in senior leadership positions in the U.S. Air Force, which has provided valuable business, leadership and management experience, he brings with him expertise in government contracting and procurement, science and technology; major weapon system research, development and acquisition; system test and evaluation; business and operations risk assessment and mitigation, supply chain and logistics management, information technology and leadership development. Mr. Reynolds also brings to our Board of Directors valuable knowledge of operations, financial, corporate governance, compensation programs, and operations of other companies gained from his previous service on the Board of Directors of other public and private companies. General Reynolds is an independent director appointed pursuant to the terms of our Security Control Agreement.

### **Controlled Company**

For purposes of the rules of the stock exchange on which our common stock is listed, we expect to be a “controlled company.” Controlled companies under those rules are companies of which more than 50% of the voting power for the election of directors is held by an individual, a group or another company. We expect that Carlyle and Onex will continue to control more than 50% of the combined voting power of our common stock upon completion of this offering and will continue to have the right to designate a majority of the members of our Board of Directors for nomination for election and the voting power to elect such directors following this offering. Accordingly, we expect to be eligible to, and we intend to, take advantage of certain exemptions from corporate governance requirements provided in the rules of such stock exchange. Specifically, as a controlled company, we would not be required to have (i) a majority of independent directors, (ii) a Nominating/Corporate Governance Committee composed entirely of independent directors, (iii) a Compensation Committee composed entirely of independent directors or (iv) an annual performance evaluation of the Nominating/Corporate Governance and Compensation Committees. Therefore, following this offering if we are able to rely on the “controlled company” exemption, we will not have a majority of independent directors, our Nominating and Corporate Governance and Compensation Committees will not consist entirely of independent directors and such committees will not be subject to annual performance evaluations; accordingly, you will not have the same protections afforded to stockholders of companies that are subject to all of the applicable stock exchange rules. The controlled company exemption does not modify the independence requirements for the audit committee, and we intend to comply with the requirements of the Sarbanes-Oxley Act and the stock exchange rules, which require that our audit committee be composed of at least three members, one of whom will be independent upon the listing of our common stock on the stock exchange, a majority of whom will be independent within 90 days of the date of this prospectus, and each of whom will be independent within one year of the date of this prospectus.

### **Board Composition**

The Board of Directors of Allison Holdings currently consists of eight members. Lawrence E. Dewey, our Chief Executive Officer, is Chairman of the Board of Allison Holdings. Pursuant to our Stockholders Agreement, Carlyle has the right to appoint four members of the Board of Directors of Allison Holdings and Onex has the right to appoint two members of the Board of Directors of Allison Holdings. Carlyle and Onex (with the approval of the DOD) have the right to mutually appoint two independent members of the Board of Directors of Allison Holdings. The exact number of members on our Board may be modified from time to time by resolution of our Board. Directors hold office until the annual meeting of stockholders and until their successors have been duly elected and qualified.

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### **Board Committees**

Our Board directs the management of our business and affairs as provided by Delaware law and conducts its business through meetings of the Board of Directors and four standing committees: the Audit Committee, the Executive Committee, the Compensation Committee and the Government Security Committee. Effective upon completion of this offering, our Board will also have a Nominating and Corporate Governance Committee. The Audit Committee consists of Messrs. Raborn (chair), Gilis and Bernasek. The Board has determined that Mr. Raborn is the Audit Committee financial expert and that Mr. Raborn is independent, determined using the stock exchange standard, for purposes of the Audit Committee. The Executive Committee consists of Messrs. Dewey, Ledford and Mersky. The Compensation Committee consists of Messrs. Bernasek (chair) and Gilis. The Government Security Committee consists of Messrs. Dewey, Raborn and Reynolds (chair). In addition, from time to time, other committees may be established under the direction of the Board when necessary to address specific issues. The Nominating and Corporate Governance Committee will consist of all members of our Board.

### **Code of Ethics**

We have adopted a code of ethics that applies to our executive officers. A copy of the code of ethics will be available on our website and will also be provided to any person without charge. Request should be made in writing to General Counsel at Allison Transmission, Inc., 4700 West 10<sup>th</sup> Street, Indianapolis, Indiana 46222.

## COMPENSATION DISCUSSION AND ANALYSIS

### Executive Summary

This Compensation Discussion and Analysis provides an overview and analysis of (i) the elements of Company's compensation program for our named executive officers identified below, (ii) the material compensation decisions made under that program and reflected in the executive compensation tables that follow this Compensation Discussion and Analysis and (iii) the material factors considered in making those decisions. We intend to provide our named executive officers with compensation that is significantly performance based. Our executive compensation program is designed to align executive pay with the performance of the Company on both short and long-term bases, link executive pay to specific, measurable results intended to create value for stockholders and utilize compensation as a tool to assist the Company in attracting and retaining the high-caliber executives that the Company believes are critical to its long-term success.

Compensation for our executive officers consists primarily of the elements, and their corresponding objectives, identified in the following table.

<u>Compensation Element</u>	<u>Primary Objective</u>
Base Salary	To recognize performance of job responsibilities and to attract and retain individuals with superior talent.
iComp (annual performance-based compensation)	To promote the Company's near-term performance objectives across the entire workforce and reward individual contributions to the achievement of those objectives.
Discretionary long-term equity incentive awards	To emphasize the Company's long-term performance objectives, encourage the maximization of stockholder value and retain key executives by providing an opportunity to participate in the ownership of the Company.
Severance and change in control benefits	To encourage the continued attention and dedication of key individuals and to focus the attention of key individuals when considering strategic alternatives.
Retirement savings (401(k)) and pension plans	To provide an opportunity for tax-efficient savings and long-term financial security.
Other elements of compensation and perquisites	To attract and retain talented executives in a cost-efficient manner by providing benefits with high perceived values at relatively low cost to the Company.

To serve the foregoing objectives, our overall compensation program is generally designed to be adaptive rather than purely formulaic. The compensation committee of our Board of Directors, or the Compensation Committee, has primary authority to determine and approve compensation decisions with respect to our executive officers. In alignment with the objectives set forth above, the Compensation Committee determines overall compensation, and its allocation among the elements described above, in reliance upon the judgment and general industry knowledge of its members obtained through years of service with comparably sized companies in our and similar industries.

For the year ended December 31, 2010, our named executive officers, or our NEOs, are:

- Lawrence E. Dewey, Chairman, President and Chief Executive Officer,
- David S. Graziosi, Executive Vice President, Chief Financial Officer and Treasurer,
- David L. Parish, Vice President of Operations,

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- Michael G. Headly, Vice President, Non-NAFTA Marketing, Sales and Service, and
- James L. Wanaselja, Vice President, NAFTA Marketing, Sales and Service.

In addition, we have elected to provide information in this Compensation Discussion and Analysis for Randall R. Kirk, our Vice President of Product Engineering, who is not a named executive officer for 2010 but to whom we refer for simplicity as one of our NEOs in this Compensation Discussion and Analysis. Our compensation decisions for the NEOs in 2010 are discussed below in relation to each of the above-described elements of our compensation program. The below discussion is intended to be read in conjunction with the executive compensation tables and related disclosures that follow this Compensation Discussion and Analysis.

### **Compensation Overview**

The Company's overall compensation program is structured to attract, motivate and retain highly qualified executive officers by paying them competitively, consistent with the Company's success and their contribution to that success. The Company believes compensation should be structured to ensure that a significant portion of compensation opportunity will be related to factors that directly and indirectly influence stockholder value. Accordingly, the Company sets goals designed to link each NEO's compensation to the Company's performance and the NEO's own performance within the Company. Consistent with our performance-based philosophy, the Company provides a base salary to our executive officers and includes a significant incentive-based component, which includes variable awards under our annual incentive bonus program based on the financial and operational performance of the Company, as well as stock option awards and stock purchase rights granted to our NEOs at the time we became a standalone company as a result of the Acquisition Transaction or, if later, upon commencement of employment with us, which option awards and stock purchase rights are meant to align our NEOs' interests with our long-term performance.

Total compensation for our NEOs has been allocated between cash and equity compensation, taking into consideration the balance between providing short-term incentives and long-term investment in our financial performance, to align the interests of management with the interests of stockholders. The variable annual incentive award and the equity awards are designed to ensure that total compensation reflects the overall success or failure of the Company and to motivate the NEOs to meet appropriate performance measures, thereby maximizing total return to stockholders. In anticipation of our initial public offering, we intend to adopt a new equity incentive plan, which we refer to as the "2011 Equity Incentive Plan," or the 2011 Plan, and which is discussed in more detail under "2011 Equity Incentive Plan" below.

### **Determination of Compensation Awards**

The Compensation Committee is provided with the primary authority to determine and approve the compensation awards available to the Company's executive officers and is charged with reviewing executive officer compensation policies and practices to ensure (i) adherence to our compensation philosophies and (ii) that the total compensation paid to our executive officers is fair, reasonable and competitive, taking into account our position within our industry, including our comparative performance, and our named executive officers' level of expertise and experience in their positions, as determined by the Compensation Committee based upon the judgment and industry experience of its members. The Compensation Committee is primarily responsible for (i) determining base salary and target bonus levels (representing the bonus that may be awarded expressed as a percentage of base salary or as a dollar amount for the year), (ii) assessing the performance of the Chief Executive Officer and other NEOs for each applicable performance period and (iii) determining the awards to be paid to our Chief Executive Officer and other NEOs under our annual incentive bonus program for each year. To aid the Compensation Committee in making its determinations, the CEO provides recommendations at least annually to the Compensation Committee regarding the compensation of all officers, excluding himself. The performance of our senior executive management team is reviewed at least annually by the Compensation Committee, and the Compensation Committee determines each NEO's compensation at least annually.

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In determining compensation levels for our NEOs, the Compensation Committee considers each NEO's unique position and responsibility and relies upon the judgment and industry experience of its members, including their knowledge of competitive compensation levels in our industry. We believe that executive officer base salaries should be competitive with salaries for executive officers in similar positions and with similar responsibilities in our marketplace, based on the Compensation Committee's general industry knowledge, and adjusted for financial and operating performance and previous work experience. In this regard, each executive officer's current and prior compensation, including compensation paid by our predecessor or the NEO's prior employer, is considered as a reference point against which determinations are made as to whether increases are appropriate to retain the NEO in light of competition or in order to provide continuing performance incentives.

In making compensation determinations, the Compensation Committee historically has not made regular use of benchmarking or of compensation consultants, has not directly compared compensation levels with any other companies and has not referred to any specific compensation survey or other data. Rather, in alignment with the considerations described above, the Compensation Committee determines the total amount of compensation for our NEOs, and the allocation of total compensation among each of our three main components of compensation, in reliance upon the judgment and general industry knowledge of its members obtained through years of service with comparably sized companies in our industry and other similar industries to ensure we attract, develop and retain superior talent.

The Company currently has no formal policy with respect to requiring officers and directors to own stock of the Company. However, we historically have encouraged direct stock ownership in the Company by NEOs and other employees by granting to such NEOs and other employees at the time we became a separate company or, if later, upon commencement of employment, the right to purchase shares of stock in the Company. We believe that direct ownership in the Company provides our NEOs with a strong incentive to increase the value of the Company.

### **Base Compensation For 2010**

The Company sets base salaries for its NEOs generally at a level it deems necessary to attract and retain individuals with superior talent. Each year the Company determines base salary increases based upon the job responsibilities and demonstrated proficiency of the executive officers as assessed by the Compensation Committee, and for executive officers other than the Chief Executive Officer, in conjunction with recommendations made by the Chief Executive Officer. No formulaic base salary increases are provided to the NEOs.

In June 2010, the Compensation Committee determined to provide base salary increases to each of our NEOs to reward their demonstrated leadership and proficiency in guiding the Company through a period of economic uncertainty and in recognition of the fact that no base salary increases had been provided to the NEOs in 2009. The amount of each NEO's base salary increase was determined by the Compensation Committee, and for NEOs other than the Chief Executive Officer, in conjunction with recommendations made by the Chief Executive Officer, based upon the Compensation Committee's general industry knowledge to ensure base salary compensation is fair, reasonable and competitive with executive officers in similar positions and with similar responsibilities in our marketplace. In addition, Mr. Parish's base salary increase recognized his increased global responsibilities, including oversight of our new manufacturing operations in Chennai, India and greater materials management responsibilities with respect to our product customization centers around the world. Mr. Kirk's base salary increase reflected his promotion from Engineering Executive Director to Vice President of Product Engineering and the associated substantial increase in his level of responsibilities.

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The base salaries for our NEOs both before and after the salary increases, which took effect on June 1, 2010 are set forth in the following table:

<u>Name and Principal Position</u>	<u>Base Salary Before Increase (\$)</u>	<u>Base Salary After Increase (\$)</u>
Lawrence E. Dewey Chairman, President and Chief Executive Officer	420,000	450,000
David S. Graziosi Executive Vice President, Chief Financial Officer and Treasurer	365,000	390,000
David L. Parish Vice President of Operations	250,000	275,000
Michael G. Headly Vice President, Non-NAFTA Marketing, Sales and Service	225,000	240,000
James L. Wanaselja Vice President, NAFTA Marketing, Sales and Service	225,000	240,000
Randall R. Kirk Vice President of Product Engineering	210,000	230,000

### **Annual Performance-Based Compensation For 2010**

The Company structures its compensation programs to reward executive officers based on the Company's performance and the individual executive's relative contribution to that performance. This allows executive officers to receive incentive bonus compensation, which we refer to as iComp, in the event certain specified corporate performance measures are achieved. The annual iComp pool and the NEOs' initial iComp awards are determined by the Compensation Committee based upon a formula with reference to the extent of achievement of corporate-level performance goals established annually by the Compensation Committee. The Compensation Committee may make discretionary adjustments to the initial, formulaic iComp awards to reflect its subjective determination of an individual's impact and contribution to overall corporate performance, as discussed below.

Under the terms of the iComp program, the NEOs' formulaic iComp awards are based upon a percentage of their base salaries and currently range from 40% to 100% for target-level achievement. Maximum formulaic iComp awards vary according to each executive and are set at levels that the Company determines are necessary to maintain competitive compensation practices and properly motivate our NEOs by rewarding them for the Company's short-term performance and their contributions to that performance. None of our NEOs receives a guaranteed annual iComp award.

Once the extent of achievement of corporate iComp targets and the formulaic iComp calculations have been determined, the Compensation Committee may adjust the amount of iComp awards paid upward or downward based upon its overall subjective assessment of each NEO's performance, business impact, contributions, leadership and attainment of individual objectives established periodically throughout the year, as well as other related factors. In addition, iComp funding amounts may be adjusted by the Compensation Committee to account for unusual events such as extraordinary transactions, asset dispositions and purchases, and mergers and acquisitions if, and to the extent, the Compensation Committee does not consider the effect of such events indicative of Company performance.

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The following chart sets forth the formulaic iComp awards for target-level achievement and the maximum formulaic iComp awards for our NEOs:

<u>Name and Principal Position</u>	<u>Formulaic iComp at target-level performance (% of base salary)</u>	<u>Maximum formulaic iComp award (% of base salary)</u>
Lawrence E. Dewey Chairman, President and Chief Executive Officer	100%	400%
David S. Graziosi Executive Vice President, Chief Financial Officer and Treasurer	75%	300%
David L. Parish Vice President of Operations	50%	162.5%
Michael G. Headly Vice President, Non-NAFTA Marketing, Sales and Service	50%	162.5%
James L. Wanaselja Vice President, NAFTA Marketing, Sales and Service	50%	162.5%
Randall R. Kirk Vice President of Product Engineering	40%	130%

For the year ended December 31, 2010, iComp performance goals were based upon Adjusted EBITDA, Gross Adjusted Free Cash Flow and Quality metrics. For this purpose, Adjusted EBITDA was defined as the Company's consolidated earnings before interest expense or income, income tax expense or income, depreciation and amortization expenses and other adjustments as defined by the Senior Credit Facility. Adjusted Free Cash Flow was defined as net cash flow before debt repayments and repurchases, cash interest expense or income, government price reduction payments and hedging collateral change. The Quality metric was comprised of two separate components: 90 day (and under) incidents per thousand vehicles, or IPTV, claims for NAFTA markets and 90 day (and under) IPTV claims for non-NAFTA markets. The following chart sets forth the weighting of each performance metric, the threshold, target and maximum performance goals, and the actual performance achieved under our iComp program for the year ended December 31, 2010:

<u>Performance Metric</u>	<u>Weighting (%)</u>	<u>Threshold (\$ MM)</u>	<u>Target (\$ MM)</u>	<u>Maximum (\$ MM)</u>	<u>Achieved (\$ MM)</u>
Adjusted EBITDA	75	451.6	531.3	664.1	617.0
Gross Adjusted Free Cash Flow	20	374.0	440.0	550.0	561.1
NAFTA $\leq$ 90 Day IPTV	2.5	13.2	11.2	7.9	11.2
Non-NAFTA $\leq$ 90 Day IPTV	2.5	20.2	17.2	12.1	17.3

Based on the foregoing levels of corporate achievement, the formulaic iComp award calculations for Messrs. Dewey and Graziosi equaled 304.1% of their respective target awards (or approximately 304% of base salary for Mr. Dewey and 228% of base salary for Mr. Graziosi), and the formulaic iComp award calculations for Messrs. Headly, Kirk, Parish, and Wanaselja equaled 253.0% of their respective target awards (or approximately 126.5% of base salary for each of Messrs. Parish, Headly and Wanaselja and 101.2% of base salary for Mr. Kirk). The Compensation Committee determined to provide each NEO with discretionary iComp adjustments to reflect the committee's subjective assessments of each NEO's performance, business impact, contributions, and leadership, among other factors. Specifically, the Compensation Committee primarily sought to recognize the following individual achievements when determining the final 2010 iComp awards:

- Mr. Dewey: the Company's exceptional overall performance and his strong and sustained leadership during challenging economic times;
- Mr. Graziosi: the implementation of initiatives to improve the Company's financial performance and his leadership in establishing and maintaining relationships with financial institutions;

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- Mr. Parish: substantial improvements in the Company's production and distribution operations and his leadership in bringing our Chennai, India facility online in a timely and cost efficient manner;
- Mr. Headly: the Company's increased presence and strategic development in targeted markets and his dedication to training and mentoring growing foreign management teams;
- Mr. Wanaselja: the strengthened field sales organization of the Company and his leadership in developing customer relationships; and
- Mr. Kirk: the Company's accelerated pace of product development and his general leadership within our product engineering group.

The actual iComp awards earned by the NEOs for 2010 are set forth below in our Summary Compensation Table for 2010 under the column entitled "Non-Equity Incentive Plan Compensation.

### **Discretionary Long-Term Equity Incentive Awards**

The Company's NEOs, along with other key Company employees, were granted Company stock options at the time we became a separate company or, if later, at the commencement of their employment with the Company and are eligible to receive additional awards of stock options or other equity or equity-based awards under our Equity Incentive Plan at the discretion of the Compensation Committee. However, the Compensation Committee has not historically made annual or regular equity grants to our NEOs or other employees.

Equity award grants are tied to time-based vesting requirements and are designed to not only compensate but to also motivate and retain the recipients by providing an opportunity for the recipients to participate in the ownership of the Company. The equity award grants to members of the senior management team also promote the Company's long-term compensation objectives by aligning the interests of the executives with the interests of the Company's stockholders.

Generally, stock options granted under our equity incentive plan have vesting schedules that are designed to encourage an optionee's continued employment and option prices that are designed to reward an optionee for Company performance. Options generally expire ten years from the date of the grant and vest in five equal annual installments following the date of grant, subject to the optionee's continued employment on each applicable vesting date.

The Company has historically granted to key employees options with staggered exercise prices, such that the exercise price of a portion of the option is substantially greater than (in increments of 1.5 times and 2 times) the fair market value of the stock underlying the option on the date of grant, thereby creating incentives for our NEOs and other key employees to seek to generate increased stockholder value.

None of our NEOs received stock options or other equity incentive awards during the year ended December 31, 2010.

### **Defined Contribution Plans**

The Company maintains a defined contribution plan that is tax-qualified under Section 401(k) of the Internal Revenue Code and that we refer to as the 401(k) Plan. The 401(k) Plan permits eligible salaried employees of the Company to defer receipt of portions of their eligible salaries, subject to certain limitations imposed by the Internal Revenue Code, by making contributions to the 401(k) Plan, including flexible compensation contributions, Roth contributions, catch-up contributions and after-tax contributions.

The Company provides matching contributions to the 401(k) Plan in an amount equal to one hundred percent of each participant's pre-tax, after-tax, and Roth contributions, up to a maximum of four percent of the participant's annual eligible salary and subject to certain other limits. The Company makes additional

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contributions to the 401(k) Plan on behalf of certain groups of participants, depending on the date of their commencement of service with our predecessor and whether they are eligible to participate in the Company's defined benefit plan as described below. These contributions are in amounts of either one percent and/or four percent of eligible salary, subject to certain other limits. Rollover contributions are also permitted.

Plan participants are 100% vested in pre-tax and pre-tax catch-up contributions, flexible compensation contributions, after-tax contributions, Roth and Roth catch-up contributions, and rollover contributions. Plan participants vest in the amounts contributed by the Company on the earliest of: (i) completing three years of credited service with the Company, (ii) attaining age 65, or (iii) the participant's death. Employees of the Company are eligible to participate in the 401(k) Plan on the first day of the first month on or after completing three months of service with the Company.

The 401(k) Plan is offered on a nondiscriminatory basis to all salaried employees of the Company, including NEOs, who meet the eligibility requirements. The Compensation Committee believes that matching and other contributions provided by the Company assist the Company in attracting and retaining talented employees and executives. The 401(k) Plan provides an opportunity for participants to save money for retirement on a tax-qualified basis and to achieve financial security, thereby promoting retention.

### **Defined Benefit Plans**

Annual retirement benefits under the Allison Transmission Retirement Program for Salaried Employees accrue at a rate of 1.25% of base wages each year. Benefits are payable as a life annuity for the participant. If elected, joint & survivor and other payment options are available. The full retirement benefit is generally payable to participants who retire on or after attaining age 62 with 10 years of service, and a reduced early retirement benefit is generally available to participants who retire on or after age 55 with 10 years of service or who retire at any age with 30 years of service. No offsets are made for the value of any social security benefits earned.

Similar to the 401(k) Plan, this defined benefit plan is a nondiscriminatory tax-qualified retirement plan that provides eligible participants (generally, employees who commenced service with our predecessor on or before January 1, 2007) with an opportunity to earn retirement benefits and provides for financial security. Offering these benefits is an additional means for the Company to retain well-qualified executives.

### **Employment and Severance Arrangements**

The Compensation Committee considers the maintenance of a sound management team to be essential to protecting and enhancing our best interests and the best interests of the Company. To that end, we recognize that the uncertainty that may exist among management with respect to their "at-will" employment with the Company may result in the departure or distraction of management personnel to the detriment of the Company. Accordingly, the Compensation Committee has determined that severance arrangements are appropriate to encourage the continued attention and dedication of certain members of our management and to allow them to focus on the value to stockholders of strategic alternatives without concern for the impact on their continued employment. Each of Messrs. Dewey and Graziosi has an employment agreement which provides for severance benefits upon termination of employment.

Mr. Dewey's employment agreement, dated as of February 7, 2008, has an original five-year term and is extended automatically for successive one-year periods thereafter unless either party delivers notice within specified notice periods to terminate the agreement. Upon termination of Mr. Dewey's employment either by us without cause, by Mr. Dewey for good reason or due to nonextension of the term by us or Mr. Dewey's death or disability, subject to his timely executing a general release of claims against the Company, Mr. Dewey is entitled to receive a lump sum payment equal to 1.5 times his annual base salary plus 1.5 times his annual performance bonus (or his annual target bonus, if performance goals have not been set) for the year in which the termination occurs (calculated with reference to performance for the fiscal quarter that ended prior to the date of termination or the first quarter, if his termination occurs in the first quarter) and, at the Company's expense, continued coverage for 18 months under our group medical plan in which Mr. Dewey and any of his dependents were

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participating immediately prior to his termination. During his employment and for 18 months following termination, Mr. Dewey's employment agreement prohibits him from competing with certain businesses of the Company or from soliciting employees, customers or suppliers of the Company to terminate their employment or arrangements with the Company.

Mr. Graziosi's employment agreement, dated as of November 1, 2007, has an original three-year term and is extended automatically for successive one-year periods thereafter unless either party delivers notice within specified notice periods to terminate the agreement. Upon termination of Mr. Graziosi's employment either by us without cause, by Mr. Graziosi for good reason or due to nonextension of the term by us or Mr. Graziosi's death or disability, subject to his timely executing a general release of claims against the Company, Mr. Graziosi is entitled to receive a lump sum payment equal to 1.25 times his stated annual base salary plus 1.25 times his annual performance bonus (or his annual target bonus, if performance goals have not been set) for the year in which the termination occurs (calculated with reference to performance for the fiscal quarter that ended prior to the date of termination or the first quarter, if his termination occurs in the first quarter) and, at the Company's expense, continued coverage for 15 months under our group medical plan in which Mr. Graziosi and any of his dependents were participating immediately prior to his termination. During his employment and for 15 months following termination, Mr. Graziosi's employment agreement prohibits him from competing with certain businesses of the Company or from soliciting employees, customers or suppliers of the Company to terminate their employment or arrangements with the Company.

"Cause" is defined in Messrs. Dewey's and Graziosi's employment agreements to mean (i) a determination by the Board of Directors that the executive has failed to perform his duties (other than a failure resulting from his disability) that is reasonably expected to result in, or has resulted in, material economic damage to us, (ii) a determination by the Board of Directors that the executive has failed to carry out or comply with any lawful and reasonable directive of the Board of Directors that is consistent with the applicable employment agreement, (iii) the executive's conviction, plea of no contest or imposition of unadjudicated probation for any felony or crime involving moral turpitude, (iv) the executive's use or possession of illegal drugs on our premises or while performing his duties and responsibilities to us or (v) the executive's commission of an act of fraud, embezzlement, misappropriation, willful misconduct or breach of fiduciary duty against us. "Good reason" is defined in Mr. Dewey's and Mr. Graziosi's employment agreements to mean (i) a material diminution in the executive's authorities, duties, or responsibilities, (ii) a material relocation of the executive's principal place of employment or (iii) a material diminution in the executive's annual base salary or target annual bonus amount.

### **Other Elements of Compensation and Perquisites**

We provide our executive officers, including our NEOs, with certain personal benefits and perquisites, which we do not consider to be a significant component of executive compensation but which we recognize are an important factor in attracting and retaining talented executives. Executive officers are eligible under the same plans as all other employees for medical, dental, vision and short-term disability insurance, and may participate to the same extent as all other employees in our tuition reimbursement program, which provides assistance to salaried employees who wish to pursue accredited degree programs or selected courses related to their work and their qualified dependents. We provide higher levels of long-term disability and life insurance coverages to our executive officers than is generally available to our non-executive employees. We also provide our executive officers with the personal use of Company fleet automobiles and, for certain executives, an automobile allowance. We provide these supplemental benefits to our executive officers due to the relatively low cost of such benefits and the value they provide in assisting us in attracting and retaining talented executives. None of our executive officers, including our NEOs, receive any tax gross up in connection with our provision of any perquisites or personal benefits. The value of personal benefits and perquisites we provide to each of our NEOs is set forth below in our Summary Compensation Table.

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**Summary Compensation Table for 2010**

The following table sets forth certain information with respect to the compensation paid to our NEOs for the year ended December 31, 2010.

<u>Name and Principal Position</u>	<u>Salary (\$)</u>	<u>Non-Equity Incentive Plan Compensation (\$)(1)</u>	<u>Change in Pension Value (\$)</u>	<u>All Other Compensation (\$)</u>	<u>Total (\$)</u>
Lawrence E. Dewey Chairman, President and Chief Executive Officer	437,500	1,499,999	31,270	(2)	
David S. Graziosi Executive Vice President, Chief Financial Officer and Treasurer	379,583	1,000,000	—	(3)	
David L. Parish Vice President of Operations	264,583	500,000	41,659	(4)	
Michael G. Headly Vice President, Non-NAFTA Marketing, Sales and Service	233,750	350,000	41,109	(5)	
James L. Wanaselja Vice President, NAFTA Marketing, Sales and Service	233,750	310,755	39,115	(6)	
Randall R. Kirk Vice President of Product Engineering	221,667	324,932	30,762	(7)	

- (1) Represents the awards earned under the Company's annual iComp program for the year ended December 31, 2010. For a discussion of the determination of these amounts, see "Annual Performance-Based Compensation for 2010" above.
- (2) Includes \$16,200 of automobile allowance, \$9,800 of employer contributions under the Company's 401(k) plan, \$4,499 of Company-paid life and disability insurance premiums, and \$ for the personal use of company automobiles.
- (3) Includes \$22,050 of employer contributions under the Company's 401(k) plan, \$1,692 of Company-paid life and disability insurance premiums and \$ for the personal use of company automobiles.
- (4) Includes \$16,200 of automobile allowance, \$9,406 of employer contributions under the Company's 401(k) plan, \$4,902 of Company-paid life and disability insurance premiums, and \$ for the personal use of company automobiles.
- (5) Includes \$16,200 of automobile allowance, \$9,350 of employer contributions under the Company's 401(k) plan, \$4,386 of Company-paid life and disability insurance premiums and \$ for the personal use of company automobiles.
- (6) Includes \$16,200 of automobile allowance, \$11,688 of employer contributions under the Company's 401(k) plan, \$4,386 of Company-paid life and disability insurance premiums and \$ for the personal use of company automobiles.
- (7) Includes \$16,200 of automobile allowance, \$8,867 of employer contributions under the Company's 401(k) plan, \$3,000 of tuition reimbursements, \$1,573 of Company-paid life and disability insurance premiums and \$ for the personal use of company automobiles.

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**Grants of Plan-Based Awards for 2010**

Name	Grant Date	Estimated Future Payouts Under Non-Equity Incentive Plan Awards		
		Threshold (\$)	Target (\$)	Maximum (\$)
Lawrence E. Dewey	2/26/2010	—	450,000(1)	1,800,000
David S. Graziosi	2/26/2010	—	292,500(2)	1,170,000
David L. Parish	2/26/2010	—	137,500(3)	446,875
Michael G. Headly	2/26/2010	—	137,500(4)	390,000
James L. Wanaselja	2/26/2010	—	137,500(5)	390,000
Randall R. Kirk	2/26/2010	—	92,000(6)	299,000

- (1) Actual award earned under our annual iComp program for 2010 was \$1,499,999. See “Annual Performance-Based Compensation For 2010” above for a discussion of the calculation of this amount.
- (2) Actual award earned under our annual iComp program for 2010 was \$1,000,000. See “Annual Performance-Based Compensation For 2010” above for a discussion of the calculation of this amount.
- (3) Actual award earned under our annual iComp program for 2010 was \$500,000. See “Annual Performance-Based Compensation For 2010” above for a discussion of the calculation of this amount.
- (4) Actual award earned under our annual iComp program for 2010 was \$350,000. See “Annual Performance-Based Compensation For 2010” above for a discussion of the calculation of this amount.
- (5) Actual award earned under our annual iComp program for 2010 was \$310,755. See “Annual Performance-Based Compensation For 2010” above for a discussion of the calculation of this amount.
- (6) Actual award earned under our annual iComp program for 2010 was \$324,932. See “Annual Performance-Based Compensation For 2010” above for a discussion of the calculation of this amount.

**Outstanding Equity Awards at December 31, 2010**

The following table provides information regarding the stock options held by the named executive officers as of December 31, 2010.

Name	Number of Securities Underlying Unexercised Options — Exercisable (#)	Number of Securities Underlying Unexercised Options — Unexercisable (#)	Option Exercise Price (\$)	Option Expiration Date
Lawrence E. Dewey	368,100(1)	245,400(2)	10.00	9/30/2017
	630,755(1)	420,502(2)	15.00	9/30/2017
	754,496(1)	502,996(2)	20.00	9/30/2017
David S. Graziosi	114,996(3)	76,664(4)	10.00	11/12/2017
	187,718(3)	125,144(4)	15.00	11/12/2017
	224,544(3)	149,695(4)	20.00	11/12/2017
David L. Parish	90,000(5)	60,000(6)	10.00	9/30/2017
	146,426(5)	97,616(6)	15.00	9/30/2017
	175,151(5)	116,767(6)	20.00	9/30/2017
Michael G. Headly	102,000(7)	68,000(8)	10.00	9/30/2017
	146,426(7)	97,616(8)	15.00	9/30/2017
	175,151(7)	116,767(8)	20.00	9/30/2017
James L. Wanaselja	85,500(9)	57,000(10)	10.00	9/30/2017
	146,426(9)	97,616(10)	15.00	9/30/2017
	175,151(9)	116,767(10)	20.00	9/30/2017
Randall R. Kirk	54,000(11)	36,000(12)	10.00	9/30/2017
	45,054(11)	30,036(12)	15.00	9/30/2017
	53,893(11)	35,928(12)	20.00	9/30/2017
	20,000(13)	40,000(14)	10.00	10/21/2019
	37,544(13)	75,090(14)	15.00	10/21/2019
	44,910(13)	89,821(14)	20.00	10/21/2019

- (1) The option became exercisable with respect to one third of the underlying shares on each of October 1, 2008, October 1, 2009 and October 1, 2010.

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- (2) The option will become exercisable with respect to 50% of the underlying shares on each of October 1, 2011 and October 1, 2012, subject to Mr. Dewey's continued employment on each such date.
- (3) The option became exercisable with respect to one third of the underlying shares on each of November 13, 2008, November 13, 2009 and November 13, 2010.
- (4) The option will become exercisable with respect to 50% of the underlying shares on each of November 13, 2011 and November 13, 2012, subject to Mr. Graziosi's continued employment on each such date.
- (5) The option became exercisable with respect to one third of the underlying shares on each of October 1, 2008, October 1, 2009 and October 1, 2010.
- (6) The option will become exercisable with respect to 50% of the underlying shares on each of October 1, 2011 and October 1, 2012, subject to Mr. Parish's continued employment on each such date.
- (7) The option became exercisable with respect to one third of the underlying shares on each of October 1, 2008, October 1, 2009 and October 1, 2010.
- (8) The option will become exercisable with respect to 50% of the underlying shares on each of October 1, 2011 and October 1, 2012, subject to Mr. Headly's continued employment on each such date.
- (9) The option became exercisable with respect to one third of the underlying shares on each of October 1, 2008, October 1, 2009 and October 1, 2010.
- (10) The option will become exercisable with respect to 50% of the underlying shares on each of October 1, 2011 and October 1, 2012, subject to Mr. Wanaselja's continued employment on each such date.
- (11) The option became exercisable with respect to one third of the underlying shares on each of October 1, 2008, October 1, 2009 and October 1, 2010.
- (12) The option will become exercisable with respect to 50% of the underlying shares on each of October 1, 2011 and October 1, 2012, subject to Mr. Kirk's continued employment on each such date.
- (13) The option became exercisable with respect to the underlying shares on October 2, 2010.
- (14) The option will become exercisable with respect to 50% of the underlying shares on each of October 1, 2011 and October 1, 2012, subject tot Mr. Kirk's continued employment on each such date.

### **Options Exercised and Stock Vested**

None of our NEOs exercised options or became vested in shares of the Company's during the year ended December 31, 2010.

### **Pension Benefits for 2010**

The following table sets forth information regarding the accrued pension benefits for the NEOs for 2010 under the Company's defined benefit plan.

<u>Name</u>	<u>Plan Name</u>	<u>Number of Years Credited Service (#)</u>	<u>Present Value of Accumulated Benefit (\$)</u>	<u>Payments During Last Fiscal Year (\$)</u>
Lawrence E. Dewey	Allison Transmission Retirement Program for Salaried Employees	3.4	78,967	0
David L. Parish	Allison Transmission Retirement Program for Salaried Employees	3.4	109,377	0
Michael G. Headly	Allison Transmission Retirement Program for Salaried Employees	3.4	106,572	0
James L. Wanaselja	Allison Transmission Retirement Program for Salaried Employees	3.4	100,257	0
Randall R. Kirk	Allison Transmission Retirement Program for Salaried Employees	3.4	70,794	0

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Messrs. Dewey, Parish, Headly, Wanaselja, and Kirk participate in the Company's defined benefit plan. Mr. Graziosi did not commence service with our predecessor prior to January 1, 2007 and is therefore not eligible to participate in the Company's defined benefit plan. Annual retirement benefits under the plan accrue at a rate of 1.25% of base wages each year. Benefits are payable as a life annuity for the participant. If elected, joint & survivor payment options are available at reduced benefit levels. The full retirement benefit is payable to participants who retire on or after attaining age 62 with 10 years of service, and a reduced early retirement benefit is available to participants who retire on or after age 55 with 10 years of service. No offsets are made for the value of any social security benefits earned.

For information with respect to the valuation methods and material assumptions applied in quantifying the present value of the accrued benefits under the pension plan, see Note 12 to our consolidated financial statements for the year ended December 31, 2010, included elsewhere in this prospectus.

### **Nonqualified Deferred Compensation**

Our NEOs do not participate in any nonqualified deferred compensation plans and received no nonqualified deferred compensation during the year ended December 31, 2010.

### **Potential Payments upon Termination or Change-in-Control**

Messrs. Dewey and Graziosi each have an agreement which provides for severance benefits upon termination of employment. See "Employment and Severance Arrangements" above for a description of the employment and severance agreements we have with each of Messrs. Dewey and Graziosi. Assuming a termination of employment effective as of December 31, 2010 (i) by us without cause, (ii) due to the executive's death or disability, (iii) due to our nonextension of the executive's employment term or (iv) due to the executive's resignation for good reason, each of our NEOs would have received the following severance payments and benefits:

<u>Name</u>	<u>Payment Type</u>	<u>Termination Without Cause or Due to Death, Disability or Non-Extension of Term (\$)</u>
Lawrence E. Dewey	Salary	675,000
	Bonus	2,249,999
	Benefit continuation(1)	24,760
	<b>Total</b>	<b>2,949,759</b>
David S. Graziosi	Salary	487,500
	Bonus	1,250,000
	Benefit continuation(1)	16,580
	<b>Total</b>	<b>1,754,080</b>

(1) Consists of continuation of group health benefits. The value of the health benefits was calculated using an estimate of the cost to the Company of such health coverage based upon past experience.

Pursuant to the stock option agreements covering each NEO's stock options, in the event of certain transactions, which could include a change in control of the Company, generally that result in Carlyle and Onex liquidating at least 70% of their combined equity investment in the Company, the exercisability of all shares underlying the options would be accelerated. In addition, the exercisability of all shares underlying Mr. Dewey's and Mr. Graziosi's options would be accelerated if the applicable executive were terminated without cause or resigned for good reason within ninety days following the date the Company acquires a majority of the equity securities or assets of another company, or is acquired by another company, in a transaction the Board of Directors determines is valued at one billion or more dollars. Assuming such a change in control occurred effective December 31, 2010, based on the estimated fair market value of the Company's common stock on that date, the NEO's would not have received any amounts with respect to the acceleration of their unvested outstanding options.

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We provide higher levels of life insurance coverage to our NEOs than is generally available to our other employees. In the event of a termination due to death on December 31, 2010, in addition to the amounts, if any, set forth in the table above, each of our NEOs (or their estates) would be entitled under their respective life insurance policies to receive payments equal to four times their then-current base salaries, which are set forth above in the section entitled “Compensation Discussion and Analysis—Base Compensation for 2010.”

### Compensation Risk

Management of the Company, through the human resources, finance and legal departments, have analyzed the potential risks arising from the Company’s compensation policies and practices, and has determined that there are no such risks that are reasonably likely to have a material adverse effect on the Company.

### Director Compensation For 2009

Directors who are employees of the Company (Mr. Dewey) and the Carlyle and Onex directors (Messrs. Ledford, Bernasek, Rabaut, Mersky, and Gilis) receive no additional compensation for serving on our Board of Directors or its committees. However, in consideration of the service of Mr. Rabaut on our Board of Directors, we granted to Mr. Rabaut a stock appreciation right award for 23,334 shares at a base price of \$10 per share on December 13, 2007. Carlyle has agreed to be solely responsible for any payments with respect to such award, which is to be settled in cash. For his services as an independent member of our Board of Directors, Mr. Raborn receives an annual retainer of \$75,000, which amount is payable 100% in fully vested options (the value of which is based upon a Black-Scholes valuation prepared by the Company prior to the date of grant) or 50% in fully vested options (valued as described above) and 50% in cash. Mr. Raborn also receives meeting fees for board meetings attended up to a maximum of \$75,000 annually, which amount is payable 100% in options (valued as described above) that vest ratably over the course of the applicable year or 50% in options (valued as described above) that vest ratably over the course of the applicable year and 50% in cash. In early 2011, in recognition of Mr. Raborn’s valuable service and contributions to the Company as an independent director and in connection with an agreement to provide similar compensation to Mr. Reynolds upon his commencement of service on the Government Security Committee, the Compensation Committee determined to award Mr. Raborn an additional annual retainer fee in the amount of \$10,000, payable 100% in cash.

Mr. Coats resigned as a member of our Board of Directors in early 2010. The compensation paid to Mr. Coats for his services as an independent director for 2010 is set forth in the table below.

Mr. Reynolds joined our Board of Directors as an independent director in June 2010 and receives compensation similar to that provided to Mr. Raborn, as described above. For Mr. Reynolds’ services during 2010, the Company agreed to pay Mr. Reynolds an initial retainer fee of \$85,000, payable \$10,000 in cash and \$75,000 in fully vested options (valued as described above), and meeting fees not to exceed \$75,000, payable in the same manner as the meeting fees which Mr. Raborn receives, as described above.

In 2010, we provided the following compensation to our independent directors:

<u>Name</u>	<u>Fees Earned or Paid in Cash (\$)</u>	<u>Option Awards \$(1)</u>	<u>Total</u>
Francis Raborn	85,000	—	85,000
Richard V. Reynolds	104,566	—	104,566
Daniel Coats	—	—	—

- (1) We did not grant stock options to our non-employee directors during the year ended December 31, 2010. Options intended as 2010 director compensation were granted to Messrs. Raborn and Coats on October 29, 2009 and to Mr. Reynolds on February 9, 2011. As of December 31, 2010, Mr. Raborn held fully-vested options to purchase 95,801 shares of the Company’s common stock, with an exercise price of \$10 per share, and neither Mr. Coats nor Mr. Reynolds held any options or other equity or equity-based awards.

## CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

### Services Agreement

On August 7, 2007, the Sponsors entered into a services agreement with ATI, pursuant to which ATI pays the Sponsors an annual fee of approximately \$3.0 million (shared equally by the Sponsors) for certain advisory, consulting and other services to be performed by the Sponsors, exclusive of the reimbursements for certain out-of-pocket expenses incurred in connection with the performance of such services, and additional reasonable compensation for other services provided by the Sponsors from time to time, including consulting and other services with respect to acquisitions and divestitures or sales of equity or debt instruments. For the years ended December 31, 2010, 2009 and 2008, the Sponsors did not provide any additional services beyond customary advisory services.

### Amended and Restated Stockholders Agreement

In connection with the Acquisition Transaction, on August 7, 2007, we entered into a stockholders agreement with the Sponsors and members of management who hold common stock or options to purchase common stock. Upon effectiveness of the registration statement of which this prospectus forms a part, the stockholders agreement will be amended and restated.

Pursuant to the amended and restated stockholders agreement, our Board of Directors will consist of eight members, with Carlyle having the right to designate four of the board members (one of whom must be a member of the management of the Company and be a U.S. citizen eligible to be issued the requisite DOD personnel security clearance), who we refer to as the Carlyle directors, Onex having the right to designate two of the board members, who we refer to as the Onex directors, and the Sponsors (with the approval of the DOD) having the right to mutually designate the two remaining board members (both of whom must be independent of the Sponsors and be U.S. citizens eligible to be issued the requisite DOD personnel security clearances).

The amended and restated stockholders agreement will contain restrictions on the transfer of equity securities of Allison Holdings by the stockholders party to that agreement, as well as tag-along and drag-along rights and rights of first refusal and will grant the Sponsors the right to cause Allison Holdings, at its own expense, to use its best efforts to register the securities held by such stockholders for public resale, subject to certain limitations. In the event Allison Holdings registers any of its common stock following its initial public offering, these stockholders will also have the right to require Allison Holdings to use its best efforts to include the securities held by them, subject to certain limitations, including as determined by the underwriters. The amended and restated stockholders agreement will also require Allison Holdings to indemnify the stockholders party to that agreement and their affiliates in connection with any such registration of our securities.

Allison Holdings will have certain repurchase rights under the amended and restated stockholders agreement with respect to common stock and options to purchase common stock held by members of management for up to one year after the termination of any such individual's employment with the Company, subject to extension upon the occurrence of certain events to be specified in the amended and restated stockholders agreement.

The amended and restated stockholders agreement will terminate upon a sale or change in control of Allison Holdings or the written agreement of Allison Holdings and the Sponsors.

### Senior Notes Held by Executive Officers

As of December 31, 2010, Lawrence Dewey, our Chairman, President and Chief Executive Officer, David Graziosi, our Executive Vice President, Chief Financial Officer and Treasurer, Randall Kirk, our Vice President, Product Engineering and Robert M. Price, our Vice President, Human Resources, held approximately \$100,000, \$200,000, \$175,000 and \$200,000, respectively, in aggregate principal amount of the Senior Notes.

## PRINCIPAL STOCKHOLDERS

We had 153,059,740 shares of voting and non-voting common stock outstanding as of March 1, 2010 prior to the for stock split described elsewhere in this prospectus, which were owned by 52 stockholders. As of March 1, 2010, certain investment funds affiliated with Carlyle owned approximately 49.8% of our common stock, and certain investment funds affiliated with Onex owned approximately 49.8% of our common stock while the remainder is owned by members of our Board of Directors, our Chairman, President and Chief Executive Officer and certain current employees of the Company.

The following table sets forth information with respect to the beneficial ownership of our common stock as of March 1, 2011, and as adjusted to reflect the shares of our common stock offered hereby, by:

- each person known to own beneficially more than 5% of the capital stock;
- each of our directors;
- each of our named executive officers; and
- all of our directors and executive officers as a group.

The amounts and percentages of shares beneficially owned are reported on the basis of SEC regulations governing the determination of beneficial ownership of securities. Under SEC rules, a person is deemed to be a “beneficial” owner of a security if that person has or shares voting power or investment power, which includes the power to dispose of or to direct the disposition of such security. A person is also deemed to be a beneficial owner of any securities of which that person has a right to acquire beneficial ownership within 60 days. Securities that can be so acquired are deemed to be outstanding for purposes of computing any other person’s percentage. Under these rules, more than one person may be deemed to be a beneficial owner of securities as to which such person has no economic interest.

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The following table assumes a one-to-one conversion of shares of non-voting common stock held by members of management to common stock and does not give effect to the for stock split described elsewhere in this prospectus. Except as otherwise indicated in these footnotes, each of the beneficial owners listed has, to our knowledge, sole voting and investment power with respect to the shares of capital stock and the business address of each such beneficial owner is c/o Allison Transmission Holdings, Inc., 4700 West 10th Street, Indianapolis, Indiana 46222.

Name of Beneficial Owner	Shares Beneficially Owned Prior to this Offering		Shares Beneficially Owned After this Offering			
	Number	Percent	Excluding Exercise of Option Overallotment		Including Exercise of Option Overallotment	
			Number	Percent	Number	Percent
<b>Principal Stockholders</b>						
TCG Holdings, L.L.C.(1)	76,250,000	49.8%			%	%
Onex Corporation(2)	76,250,000	49.8				
<b>Executive Officers and Directors</b>						
Lawrence E. Dewey(3)	1,827,849	1.1				
David S. Graziosi(4)	565,945	*				
Mark A. Anspach(5)	206,905	*				
Sharon L. Dean(6)	256,756	*				
Edward L. Dyer(7)	31,614	*				
Michael G. Headly(8)	466,639	*				
Randall R. Kirk(9)	307,257	*				
Ryan A. Milburn(10)	279,643	*				
David L. Parish(11)	439,409	*				
Robert M. Price(12)	326,311	*				
Eric C. Scroggins(13)	116,153	*				
Laurie B. Tuttle(14)	495,549	*				
James L. Wanaselja(15)	422,013	*				
Brian A. Bernasek(16)	—	—				
Kosty Gilis(17)	—	—				
Gregory S. Ledford(18)	—	—				
Seth M. Mersky(19)	—	—				
Thomas W. Rabaut(20)	—	—				
Francis Raborn(21)	102,789	*				
Richard V. Reynolds(22)	21,544	*				
All executive officers and directors as a group (20 persons)	7,901,447	4.9%			%	%

\* Denotes less than 1.0% of beneficial ownership.

- (1) Carlyle Partners IV, L.P. and CP IV Coinvestment, L.P. are the record holders of 73,290,058.80 and 2,959,941.20 shares of our common stock, respectively. TC Group IV, L.P. is the sole general partner of Carlyle Partners IV, L.P. and CP IV Coinvestment, L.P. TC Group IV Managing GP, L.L.C. is the sole general partner of TC Group IV, L.P. TC Group, L.L.C. is the sole managing member of TC Group IV Managing GP, L.L.C. TCG Holdings, L.L.C. is the managing member of TC Group, L.L.C. Accordingly, TC Group IV, L.P., TC Group IV Managing GP, L.L.C., TC Group, L.L.C. and TCG Holdings, L.L.C. each may be deemed owners of shares of our common stock owned of record by each of Carlyle Partners IV, L.P. and CP IV Coinvestment, L.P. William E. Conway, Jr., Daniel A. D'Aniello and David M. Rubenstein are managing members of TCG Holdings, L.L.C. and, in such capacity, may be deemed to share beneficial ownership of shares of our common stock beneficially owned by TCG Holdings, L.L.C. Such individuals expressly disclaim any such beneficial ownership. The principal address and principal offices of TCG Holdings, L.L.C. and certain affiliates is c/o The Carlyle Group, 1001 Pennsylvania Avenue, N.W., Suite 220 South, Washington, D.C. 20004-2505.

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- (2) Includes: (i) 33,115,664.26 shares of common stock and 1,356,272.94 shares of non-voting common stock held by Onex Partners II LP; (ii) 21,036,633.97 shares of common stock and 861,568.63 shares of non-voting common stock held by Onex American Holdings II LLC; (iii) 311,252.46 shares of common stock and 12,747.54 shares of non-voting common stock held by Onex Partners II GP LP; (iv) 623,865.40 shares of common stock and 25,550.80 shares of non-voting common stock held by Onex US Principals LP; (v) 15,610,655.74 shares of common stock and 639,344.26 shares of non-voting common stock held by Onex Allison Co-Invest LP; and (vi) 1,226,799.65 shares of common stock and 50,244.35 shares of non-voting common stock held by Allison Executive Investco LLC. Onex Corporation may be deemed to beneficially own the common stock and non-voting common stock held by (a) Onex Partners II LP, through Onex Corporation's ownership of all of the common stock of Onex Partners GP Inc., the general partner of Onex Partners II GP LP, the general partner of Onex Partners II LP, (b) Onex American Holdings II LLC, through Onex Corporation's ownership of all of the equity of Onex American Holdings II LLC, (c) Onex Partners II GP LP, through Onex Corporation's ownership of all of the common stock of Onex Partners GP Inc., the general partner of Onex Partners II GP LP, (d) Onex US Principals LP, through Onex Corporation's ownership of all of the equity of Onex American Holdings II LLC, which owns all of the equity of Onex American Holdings GP LLC, the general partner of Onex US Principals LP, (e) Onex Allison Co-Invest LP, through Onex Corporation's ownership of all of the common stock of Onex Partners GP Inc., the general partner of Onex Partners II GP LP, the general partner of Onex Allison Co-Invest LP, and (f) Allison Executive Investco LLC, through Onex Corporation's ownership of all of the equity of Onex American Holdings II LLC, which owns 100% of the equity of Allison Executive Investco LLC. Also includes 1,325,128.52 shares of common stock and 54,271.48 shares of non-voting common stock held by Onex Advisors III LLC, an independent entity that is controlled by Mr. Gerald W. Schwartz. Mr. Schwartz, the Chairman, President and Chief Executive Officer of Onex Corporation, owns shares representing a majority of the voting rights of the shares of Onex Corporation and as such may be deemed to own beneficially all of the common stock and non-voting common stock owned beneficially by Onex Corporation. Mr. Schwartz disclaims such beneficial ownership. Mr. Schwartz has indirect voting and investment control of Onex Corporation. The address for Onex Corporation is 161 Bay Street, Toronto, ON M5J 2S1.
- (3) Includes 1,753,349 vested, but unexercised options granted to Mr. Dewey in October 2007, including 32,100 \$10 Equity Match Options, 336,000 \$10 options, 630,754 \$15 options and 754,495 \$20 options.
- (4) Includes 527,257 vested, but unexercised options granted to Mr. Graziosi in October 2007, including 15,000 \$10 Equity Match Options, 99,996 \$10 options, 187,717 \$15 options and 224,543 \$20 options.
- (5) Includes \$204,880 vested, but unexercised options granted to Mr. Anspach in May 2009, including 40,000 \$10 options, 75,080 \$15 options and 89,800 \$20 options.
- (6) Includes 230,156 vested, but unexercised options granted to Ms. Dean in October 2007, including 15,000 \$10 Equity Match Options, 42,000 \$10 options, 78,844 \$15 options and 94,312 \$20 options.
- (7) Includes 26,614 vested, but unexercised options granted to Mr. Dyer in June 2010, including 5,000 \$10 options, 9,386 \$15 options, 11,228 \$20 options and 1,000 vested, but unexercised \$10 Equity Match Options granted to Mr. Dyer in February 2011.
- (8) Includes 423,576 vested, but unexercised options granted to Mr. Headly in October 2007, including 24,000 \$10 Equity Match Options, 78,000 \$10 options, 146,425 \$15 options and 175,151 \$20 options.
- (9) Includes 152,947 vested, but unexercised options granted to Mr. Kirk in October 2007, including 30,000 \$10 Equity Match Options, 24,000 \$10 options, 45,054 \$15 options and 53,893 \$20 options, and 102,454 vested but unexercised options granted to Mr. Kirk in October 2009, including 20,000 \$10 options, 37,544 \$15 options and 44,910 \$20 options.
- (10) Includes (i) 257,893 vested, but unexercised options granted to Mr. Milburn in October 2007, including 12,000 \$10 Equity Match Options, 48,000 \$10 options, 90,108 \$15 options and 107,785 \$20 options and (ii) 9,500 shares held in the 7,600 Shares IRA.
- (11) Includes 411,576 vested, but unexercised options granted to Mr. Parish in October 2007, including 12,000 \$10 Equity Match Options, 78,000 \$10 options, 146,425 \$15 options and 175,151 \$20 options.
- (12) Includes 303,998 vested, but unexercised options granted to Mr. Price in October 2007, including 12,000 \$10 Equity Match Options, 57,000 \$10 options, 107,003 \$15 options and 127,995 \$20 options.

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- (13) Includes 109,978 vested, but unexercised options granted to Mr. Scroggins in October 2007, including 2,400 \$10 Equity Match Options, 21,000 \$10 options, 39,422 \$15 options and 47,156 \$20 options.
- (14) Includes 473,049 vested, but unexercised options granted to Ms. Tuttle in October 2007, including 12,000 \$10 Equity Match Options, 90,000 \$10 options, 168,952 \$15 options and 202,097 \$20 options.
- (15) Includes 407,076 vested, but unexercised options granted to Mr. Wanaselja in October 2007, including 7,500 \$10 Equity Match Options, 78,000 \$10 options, 146,425 \$15 options and 175,151 \$20 options.
- (16) Does not include shares of common stock held by Carlyle Partners IV, L.P. and CP IV Coinvestment, L.P., each of which is an affiliate of Carlyle. Mr. Bernasek is a director of Allison Holdings and a Managing Director of Carlyle. Mr. Bernasek disclaims beneficial ownership of the shares held by Carlyle Partners IV, L.P. and CP IV Coinvestment, L.P.
- (17) Does not include shares of common stock and non-voting common stock held by Onex Partners II LP, Onex American Holdings II LLC, Onex Allison Co-Invest LP, Allison Executive Investco LLC, Onex US Principals LP and Onex Partners II GP LP, collectively, the Onex Entities, each of which is an affiliate of Onex. Mr. Gilis is a director of Allison Holdings and a Managing Director of Onex. Mr. Gilis disclaims beneficial ownership of the shares held by the Onex Entities.
- (18) Does not include shares of common stock held by Carlyle Partners IV, L.P. and CP IV Coinvestment, L.P., each of which is an affiliate of Carlyle. Mr. Ledford is a director of Allison Holdings and a Managing Director of Carlyle. Mr. Ledford disclaims beneficial ownership of the shares held by Carlyle Partners IV, L.P. and CP IV Coinvestment, L.P.
- (19) Does not include shares of common stock and non-voting common stock held by the Onex Entities, each of which is an affiliate of Onex. Mr. Mersky is a director of Allison Holdings and a Managing Director of Onex. Mr. Mersky disclaims beneficial ownership of the shares held by the Onex Entities.
- (20) Does not include shares of common stock held by Carlyle Partners IV, L.P. and CP IV Coinvestment, L.P., each of which is an affiliate of Carlyle. Mr. Rabaut is a director of Allison Holdings and a Senior Advisor of Carlyle. Mr. Rabaut disclaims beneficial ownership of the shares held by Carlyle Partners IV, L.P. and CP IV Coinvestment, L.P.
- (21) Includes 102,789 vested, but unexercised \$10 options granted to Mr. Raborn.
- (22) Includes 21,544 vested, but unexercised \$10 options granted to Mr. Reynolds.

## DESCRIPTION OF CAPITAL STOCK

*The following is a description of our capital stock and the material provisions of our amended and restated certificate of incorporation and amended and restated bylaws, as each is anticipated to be in effect upon the closing of this offering, and other agreements to which we and our stockholders are parties. The following is only a summary and is qualified by applicable law and by the provisions of the amended and restated certificate of incorporation and amended and restated bylaws and other agreements, copies of which are available as set forth under the caption entitled "Where You Can Find More Information."*

### General

Prior to the effectiveness of our amended and restated certificate of incorporation, our authorized capital stock consists of 180,000,000 shares of common stock, par value \$0.01 per share, 20,000,000 shares of non-voting common stock, par value \$0.01 per share, and 20,000,000 shares of preferred stock, par value \$0.01 per share. Upon effectiveness of our amended and restated certificate of incorporation, our authorized capital stock will consist of \_\_\_\_\_ shares of common stock, par value \$0.01 per share, \_\_\_\_\_ shares of non-voting common stock, par value \$0.01 per share and \_\_\_\_\_ shares of preferred stock, par value \$0.01 per share. The rights and privileges of holders of our common stock and non-voting common stock are subject to any series of preferred stock that we may issue in the future.

Excluding the shares offered hereby, as of \_\_\_\_\_, \_\_\_\_\_ shares of our voting common stock were issued and outstanding and \_\_\_\_\_ shares of our non-voting common stock were issued and outstanding.

### Common Stock

Holders of common stock are entitled to one vote for each share held of record on all matters submitted to a vote of the stockholders, including the election of directors. There will be no cumulative voting in the election of directors, which means that holders of a majority of the outstanding shares of common stock will be able to elect all of the directors, and holders of less than a majority of such shares will be unable to elect any director. Under the amended and restated certificate of incorporation, subject to preferences that may be applicable to any outstanding shares of preferred stock, holders of common stock and non-voting common stock are entitled to receive ratably such dividends, if any, as may be declared from time to time by our Board of Directors out of funds legally available for dividend payments. The Senior Secured Credit Facility and the indentures governing the Senior Notes impose restrictions on our ability to declare dividends on our common stock. All outstanding shares of common stock are fully paid and non-assessable, and the shares of common stock to be issued upon completion of this offering will be fully paid and non-assessable. The holders of common stock have no preferences or rights of conversion, exchange, pre-emption or other subscription rights. There are no redemption or sinking fund provisions applicable to the common stock. In the event of any liquidation, dissolution or winding-up of our affairs, holders of common stock and non-voting common stock will be entitled to share ratably in our assets that are remaining after payment or provision for payment of all of our debts and obligations and after liquidation payments to holders of outstanding shares of preferred stock, if any.

### Non-voting Common Stock

Holders of our non-voting common stock are not entitled to a vote for any share held of record on any matter submitted to a vote of the stockholders, including the election of directors. Under the amended and restated certificate of incorporation, subject to preferences that may be applicable to any outstanding shares of preferred stock, holders of non-voting common stock and common stock are entitled to receive ratably such dividends, if any, as may be declared from time to time by our Board of Directors out of funds legally available for dividend payments. The Senior Secured Credit Facility and the indentures governing the Senior Notes impose restrictions on our ability to declare dividends on our non-voting common stock. All outstanding shares of non-voting common stock are fully paid and non-assessable. The holders of non-voting common stock have no preferences or rights of exchange, pre-emption or other subscription rights; provided that shares of non-voting

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stock automatically convert into voting common stock upon a sale pursuant to an effective registration statement or a resale under Rule 144. There are no redemption or sinking fund provisions applicable to the non-voting common stock. In the event of any liquidation, dissolution or winding-up of our affairs, holders of non-voting common stock and common stock will be entitled to share ratably in our assets that are remaining after payment or provision for payment of all of our debts and obligations and after liquidation payments to holders of outstanding shares of preferred stock, if any.

### **Preferred Stock**

The preferred stock, if issued, would have priority over the common stock and non-voting common stock with respect to dividends and other distributions, including the distribution of our assets upon liquidation. Unless required by law or by any stock exchange on which our common stock may be listed, our Board of Directors will have the authority without further stockholder authorization to issue from time to time shares of preferred stock in one or more series and to fix the terms, limitations, relative rights and preferences and variations of each series. Although we have no present plans to issue any shares of preferred stock, the issuance of shares of preferred stock, or the issuance of rights to purchase such shares, could decrease the amount of earnings and assets available for distribution to the holders of common stock and non-voting common stock, could adversely affect the rights and powers, including voting rights, of the common stock, and could have the effect of delaying, deterring or preventing a change in control of us or an unsolicited acquisition proposal.

### **Amended and Restated Stockholders Agreement**

Pursuant to the amended and restated stockholders agreement, Carlyle and Onex will have certain rights to appoint directors to our Board of Directors. See “Certain Relationships and Related Party Transactions.”

### **Limitations on Directors’ Liability**

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions indemnifying our directors and officers to the fullest extent permitted by law. Prior to the completion of this offering, we entered into indemnification agreements with each of our directors which, in some cases, are broader than the specific indemnification provisions contained under Delaware law.

In addition, as permitted by Delaware law, our amended and restated certificate of incorporation provides that no director will be liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director. The effect of this provision is to restrict our rights and the rights of our stockholders in derivative suits to recover monetary damages against a director for breach of fiduciary duty as a director, except that a director will be personally liable for:

- any breach of his or her duty of loyalty to us or our stockholders;
- acts or omissions not in good faith which involve intentional misconduct or a knowing violation of law;
- the payment of dividends or the redemption or purchase of stock in violation of Delaware law; or
- any transaction from which the director derived an improper personal benefit.

This provision does not affect a director’s liability under the federal securities laws.

To the extent our directors, officers and controlling persons are indemnified under the provisions contained in our amended and restated certificate of incorporation, Delaware law or contractual arrangements against liabilities arising under the Securities Act, we have been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

## **Provisions of Our Amended and Restated Certificate of Incorporation, Amended and Restated Bylaws and Delaware Law that May Have an Anti-Takeover Effect**

### ***Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws***

Certain provisions in our amended and restated certificate of incorporation and amended and restated bylaws summarized below may be deemed to have an anti-takeover effect and may delay, deter or prevent a tender offer or takeover attempt that a stockholder might consider to be in its best interests, including attempts that might result in a premium being paid over the market price for the shares held by stockholders.

Among other things, our amended and restated certificate of incorporation and amended and restated bylaws:

- authorize the issuance of blank check preferred stock that our Board of Directors could issue to increase the number of outstanding shares and to discourage a takeover attempt;
- limit the ability of stockholders to remove directors if a “group,” as defined under Section 13(d)(3) of the Exchange Act, ceases to own more than 50% of our common stock;
- prohibit our stockholders from calling a special meeting of stockholders;
- prohibit stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of our stockholders, if a “group” ceases to own more than 50% of our common stock;
- provide that the Board of Directors is expressly authorized to adopt, alter or repeal our bylaws; and
- establish advance notice requirements for nominations for election to our Board of Directors or for proposing matters that can be acted upon by stockholders at stockholder meetings.

The foregoing provisions of our amended and restated certificate of incorporation and amended and restated bylaws could discourage potential acquisition proposals and could delay or prevent a change in control. These provisions are intended to enhance the likelihood of continuity and stability in the composition of the Board of Directors and in the policies formulated by the Board of Directors and to discourage certain types of transactions that may involve an actual or threatened change of control. These provisions are designed to reduce our vulnerability to an unsolicited acquisition proposal. The provisions also are intended to discourage certain tactics that may be used in proxy fights. However, such provisions could have the effect of discouraging others from making tender offers for our shares and, as a consequence, they also may inhibit fluctuations in the market price of our common stock that could result from actual or rumored takeover attempts. Such provisions also may have the effect of preventing changes in our management.

### ***Delaware Takeover Statute***

Subject to certain exceptions, Section 203 prohibits a Delaware corporation from engaging in any “business combination” (as defined below) with any “interested stockholder” (as defined below) for a period of three years following the date that such stockholder became an interested stockholder, unless: (1) prior to such date, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder; (2) on consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding those shares owned (x) by persons who are directors and also officers and (y) by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or (3) on or subsequent to such date, the business combination is approved by the board of directors and authorized at an

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annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

In our amended and restated certificate of incorporation, we elect not to be governed by Section 203 of the Delaware General Corporation Law, as permitted under and pursuant to subsection (b)(3) of Section 203. Section 203 of the Delaware General Corporation Law defines “business combination” to include: (1) any merger or consolidation involving the corporation and the interested stockholder; (2) any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder; (3) subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder; (4) any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; or (5) the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation. In general, Section 203 defines an “interested stockholder” as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation and any entity or person affiliated with or controlling or controlled by such entity or person.

### **Listing**

We intend to apply for listing of our common stock on the \_\_\_\_\_ under the symbol “\_\_\_\_\_.”

### **Transfer Agent and Registrar**

We will appoint as \_\_\_\_\_ the transfer agent and registrar for our common stock.

## SHARES ELIGIBLE FOR FUTURE SALE

Upon the completion of this offering, we will have outstanding \_\_\_\_\_ shares of common stock, assuming no exercise of outstanding options and assuming that the underwriters have not exercised their overallotment option. Of these shares, \_\_\_\_\_ shares of common stock will be freely transferable without restriction or further registration under the Securities Act by persons other than “affiliates,” as that term is defined in Rule 144 under the Securities Act. Generally, the balance of our outstanding common stock are “restricted securities” within the meaning of Rule 144 under the Securities Act, subject to the limitations and restrictions that are described below. Common stock purchased by our affiliates will be “restricted securities” under Rule 144. Restricted securities may be sold in the public market only if registered or if they qualify for an exemption from registration under Rules 144 or 701 promulgated under the Securities Act.

### Lock-Up Agreements

In connection with this offering, we, our executive officers and directors and our existing security holders have agreed, subject to certain exceptions, not to sell or transfer any common stock or securities convertible into, exchangeable for, exercisable for, or repayable with common stock, for 180 days after the date of this prospectus without first obtaining the written consent of \_\_\_\_\_. See “Underwriting.”

### Rule 144

In general, under Rule 144 as in effect on the date of this prospectus, beginning 90 days after the consummation of this offering, a person (or persons whose common stock is required to be aggregated) who is an affiliate and who has beneficially owned our common stock for at least six months is entitled to sell in any three-month period a number of shares that does not exceed the greater of:

- 1% of the number of shares then outstanding, which will equal approximately \_\_\_\_\_ shares immediately after consummation of this offering; or
- the average weekly trading volume in our shares on the stock exchange on which our common stock is listed during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such a sale.

Sales by our affiliates under Rule 144 are also subject to manner of sale provisions and notice requirements and to the availability of current public information about us. An “affiliate” is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with an issuer.

Under Rule 144, a person (or persons whose shares are aggregated) who is not deemed to have been an affiliate of ours at any time during the 90 days preceding a sale, and who has beneficially owned the shares proposed to be sold for at least six months (including the holding period of any prior owner other than an affiliate), would be entitled to sell those shares subject only to availability of current public information about us, and after beneficially owning such shares for at least 12 months (including the holding period of any prior owner other than an affiliate), would be entitled to sell an unlimited number of shares without restriction. To the extent that our affiliates sell their common stock, other than pursuant to Rule 144 or a registration statement, the purchaser’s holding period for the purpose of effecting a sale under Rule 144 commences on the date of transfer from the affiliate.

### Rule 701

In general, under Rule 701 as in effect on the date of this prospectus, any of our employees, directors, officers, consultants or advisors who purchased shares from us in reliance on Rule 701 in connection with a compensatory stock or option plan or other written agreement before the effective date of this offering, or who purchased shares from us after that date upon the exercise of options granted before that date, are eligible to resell such shares 90 days after the effective date of this offering in reliance upon Rule 144. If such person is not

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an affiliate, such sale may be made subject only to the manner of sale provisions of Rule 144. If such a person is an affiliate, such sale may be made under Rule 144 without compliance with the holding period requirement, but subject to the other Rule 144 restrictions described above.

**S-8 Registration Statement**

In conjunction with this offering, we expect to file a registration statement on Form S-8 under the Securities Act, which will register up to \_\_\_\_\_ shares of common stock underlying stock options or restricted stock awards or reserved for issuance under our equity incentive plans. That registration statement will become effective upon filing, and \_\_\_\_\_ shares of common stock covered by such registration statement are eligible for sale in the public market immediately after the effective date of such registration statement, subject to the lock-up agreements described above.

**Registration Rights**

Pursuant to the amended and restated stockholders agreement, we have granted Carlyle and Onex the right to cause us, in certain instances, at our expense, to file registration statements under the Securities Act covering resales of our common stock held by them and other stockholders party to that agreement or to piggyback on such registration statements in certain circumstances. See “Certain Relationships and Related Party Transactions.” These shares will represent approximately \_\_\_\_\_ % of our outstanding common stock after this offering, or \_\_\_\_\_ % if the underwriters exercise their overallotment option in full. These shares also may be sold under Rule 144 under the Securities Act, depending on their holding period and subject to restrictions in the case of shares held by persons deemed to be our affiliates.

**MATERIAL U.S. FEDERAL TAX CONSIDERATIONS FOR  
NON-U.S. HOLDERS OF OUR COMMON STOCK**

The following is a summary of the material U.S. federal income tax consequences applicable to non-U.S. holders (as defined below) with respect to the acquisition, ownership and disposition of our common stock issued pursuant to this offering. This discussion is not a complete analysis of all the potential U.S. federal income tax consequences relating thereto, nor does it address any tax consequences arising under any state, local or non-U.S. tax laws or any other U.S. federal tax laws, including U.S. federal estate and gift tax laws. This discussion is based on the Internal Revenue Code of 1986, as amended, or the Code, Treasury regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the Internal Revenue Service, or IRS, all as in effect as of the date of this offering. These authorities may change, or be subject to differing interpretations, possibly with retroactive effect, resulting in U.S. federal income tax consequences different from those discussed below. No ruling has been or will be sought from the IRS with respect to the matters discussed below, and there can be no assurance that the IRS will not take a contrary position regarding the tax consequences of the acquisition, ownership or disposition of our common stock, or that any such contrary position would not be sustained by a court.

This summary is limited to non-U.S. holders that purchase our common stock issued pursuant to this offering and that hold our common stock as a “capital asset” within the meaning of Section 1221 of the Code (generally, property held for investment). This discussion does not address all U.S. federal income tax consequences that may be relevant to a particular non-U.S. holder in light of that holder’s particular circumstances. This discussion also does not consider any specific facts or circumstances that may be relevant to non-U.S. holders subject to special rules under the U.S. federal income tax laws, including, without limitation:

- U.S. expatriates and certain former citizens or long-term residents of the United States;
- entities or arrangements treated as partnerships for U.S. federal income tax purposes;
- controlled foreign corporations;
- passive foreign investment companies;
- corporations that accumulate earnings to avoid U.S. federal income tax;
- banks, insurance companies, and other financial institutions;
- real estate investment trusts or regulated investment companies;
- brokers, dealers or traders in securities, commodities or currencies;
- tax-exempt organizations;
- tax-qualified retirement plans;
- persons subject to the alternative minimum tax;
- persons holding our common stock as part of a hedge, straddle or other risk reduction strategy or as part of a conversion transaction or other integrated investment; and
- persons deemed to sell our common stock under the constructive sale provisions of the Code.

**THIS DISCUSSION IS FOR GENERAL INFORMATION ONLY AND IS NOT TAX ADVICE. PROSPECTIVE INVESTORS ARE URGED TO CONSULT THEIR TAX ADVISORS REGARDING THE PARTICULAR U.S. FEDERAL INCOME TAX CONSEQUENCES TO THEM OF ACQUIRING, OWNING AND DISPOSING OF OUR COMMON STOCK, AS WELL AS ANY TAX CONSEQUENCES ARISING UNDER THE LAWS OF ANY STATE, LOCAL OR NON-U.S. TAX LAWS AND ANY OTHER U.S. FEDERAL TAX LAWS (INCLUDING THE U.S. FEDERAL ESTATE AND GIFT TAX LAWS).**

## **Definition of Non-U.S. Holder**

For purposes of this discussion, a non-U.S. holder is any beneficial owner of our common stock that is not a “U.S. person” or a partnership for U.S. federal income tax purposes. A U.S. person is any of the following:

- an individual citizen or resident of the United States;
- a corporation (or other entity treated as a corporation for U.S. federal income tax purposes) created or organized under the laws of the United States, any state thereof or the District of Columbia;
- an estate the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust (1) whose administration is subject to the primary supervision of a U.S. court and which has one or more U.S. persons who have the authority to control all substantial decisions of the trust or (2) has validly elected to be treated as a U.S. person for U.S. federal income tax purposes.

If a partnership or other pass-through entity for U.S. federal income tax purposes holds our common stock, the tax treatment of a partner in the partnership or member in such other entity generally will depend on the status of the partner or member, upon the activities of the partnership or such other entity, and upon certain determinations made at the partner or member level. Accordingly, partnerships and other pass-through entities that hold our common stock and the partners in such partnerships and the members in such other entities are urged to consult their tax advisors regarding the specific U.S. federal income tax consequences to them.

## **Distributions on our Common Stock**

As described in the section entitled “Dividend Policy,” we have not paid a dividend on our common stock in the past and do not anticipate paying dividends on our common stock in the foreseeable future. If, however, we make cash or other property distributions on our common stock, such distributions generally will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Amounts not treated as dividends for U.S. federal income tax purposes will constitute a return of capital and will first be applied against and reduce a holder’s adjusted tax basis in the common stock, but not below zero. Any remaining amounts will be treated as gain realized on the sale or other disposition of the common stock and will be treated as described under the section entitled “— Dispositions of our Common Stock” below.

Dividends paid to a non-U.S. holder of our common stock that are not effectively connected with a U.S. trade or business conducted by such holder generally will be subject to U.S. federal withholding tax at a rate of 30% (or such lower rate specified by an applicable tax treaty) of the gross amount of the dividends. To receive the benefit of a reduced treaty rate, a non-U.S. holder must furnish a valid IRS Form W-8BEN (or applicable successor form) certifying such holder’s qualification for the reduced rate. This certification must be provided to us or our paying agent prior to the payment of dividends and must be updated periodically. Non-U.S. holders that do not timely provide us or our paying agent with the required certification, but that qualify for a reduced treaty rate, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS.

If a non-U.S. holder holds our common stock in connection with the conduct of a trade or business in the United States, and dividends paid on the common stock are effectively connected with such holder’s U.S. trade or business (and, if required by an applicable tax treaty that a non-U.S. holder relies upon, are attributable to a permanent establishment maintained by the non-U.S. holder in the United States), the non-U.S. holder will generally be exempt from U.S. federal withholding tax. To claim the exemption, the non-U.S. holder must furnish a properly executed IRS Form W-8ECI (or applicable successor form) to us or our paying agent prior to the payment of such dividends.

Any dividends paid on our common stock that are effectively connected with a non-U.S. holder’s U.S. trade or business (and, if required by an applicable tax treaty that a non-U.S. holder relies upon, are attributable to a permanent establishment maintained by the non-U.S. holder in the United States) generally will be subject to

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U.S. federal income tax on a net income basis at the regular graduated U.S. federal income tax rates in the same manner as if such holder were a resident of the United States. A non-U.S. holder that is a corporation also may be subject to a branch profits tax equal to 30% (or such lower rate specified by an applicable tax treaty) of its effectively connected earnings and profits for the taxable year, as adjusted for certain items.

Non-U.S. holders are urged to consult their tax advisors regarding their entitlement to benefits under a relevant income tax treaty.

### **Dispositions of our Common Stock**

Subject to the discussions below regarding backup withholding and foreign accounts, a non-U.S. holder generally will not be subject to U.S. federal income tax on any gain realized upon the sale or other disposition of our common stock unless:

- the gain is effectively connected with the non-U.S. holder's conduct of a trade or business in the United States, and if required by an applicable tax treaty, is attributable to a permanent establishment maintained by the non-U.S. holder in the United States;
- the non-U.S. holder is a nonresident alien individual present in the United States for 183 days or more during the taxable year of the disposition and certain other requirements are met; or
- our common stock constitutes a "United States real property interest" by reason of our status as a "United States real property holding corporation," which we refer to as a USRPHC, at any time during the shorter of the five-year period preceding the date of disposition or the holder's holding period for our common stock, and certain other requirements are met.

Unless an applicable tax treaty provides otherwise, gain described in the first bullet point above will be subject to U.S. federal income tax on a net income basis at the regular graduated U.S. federal income tax rates in the same manner as if such holder were a resident of the United States. A non-U.S. holder that is a corporation also may be subject to a branch profits tax equal to 30% (or such lower rate specified by an applicable tax treaty) of all or a portion of its effectively connected earnings and profits for the taxable year, as adjusted for certain items.

Gain described in the second bullet point above generally will be subject to U.S. federal income tax at a flat 30% rate but may be offset by U.S. source capital losses.

Non-U.S. holders are urged to consult their tax advisors regarding their entitlement to benefits under a relevant income tax treaty.

With respect to the third bullet point above, we believe we are not currently and do not anticipate becoming a USRPHC for United States federal income tax purposes. However, because the determination of whether we are a USRPHC depends on the fair market value of our United States real property interests relative to the fair market value of our other trade or business assets and our non-United States real property interests, there can be no assurance that we will not become a USRPHC in the future. Even if we are or were to become a USRPHC, gain arising from the sale or other taxable disposition by a non-U.S. holder of our common stock will not be subject to tax if our common stock is "regularly traded," as defined by applicable Treasury Regulations, on an established securities market, and such non-U.S. holder owned, actually or constructively, five percent (5%) or less of our common stock throughout the shorter of the five-year period ending on the date of the sale or exchange or the non-U.S. holder's holding period for such stock. We expect our common stock to be "regularly traded" on an established securities market, although we cannot guarantee it will be so traded. If gain on the sale or other taxable disposition of our stock were subject to taxation under the third bullet point above, the non-U.S. holder would be subject to regular United States federal income tax with respect to such gain in generally the same manner as a United States person.

### **Information Reporting and Backup Withholding**

We must report annually to the IRS and to each non-U.S. holder the amount of dividends on our common stock paid to such holder, the name and address of the recipient, and the amount of any tax withheld with respect to those dividends. These information reporting requirements apply in certain circumstances even if no withholding was required, including in the event that the dividends were effectively connected with the holder's conduct of a U.S. trade or business or withholding was reduced or eliminated by an applicable tax treaty. This information also may be made available under a specific treaty or agreement with the tax authorities in the country in which the non-U.S. holder resides or is established. Backup withholding, however, generally will not apply to payments of dividends to a non-U.S. holder of our common stock provided the non-U.S. holder furnishes the required certification as to its non-U.S. status, such as by providing a valid IRS Form W-8BEN or W-8ECI, or certain other requirements are met. Notwithstanding the foregoing, backup withholding may apply if either we or our paying agent has actual knowledge, or reason to know, that the holder is a United States person that is not an exempt recipient.

Unless a non-U.S. holder complies with certification procedures to establish that it is not a United States person, information returns may be filed with the IRS in connection with, and the non-U.S. holder may be subject to backup withholding on the proceeds from, a sale or other disposition of our common stock. The certification procedures described in the above paragraph will satisfy these certification requirements as well.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a non-U.S. holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

### **Additional Withholding Tax Relating to Foreign Accounts**

An additional withholding tax will apply to certain types of payments made after December 31, 2012 to "foreign financial institutions" (as specially defined under these rules) and certain other non-U.S. entities. Specifically, a 30% withholding tax will be imposed on dividends on, or gross proceeds from the sale or other disposition of, our common stock paid to a foreign financial institution or to a non-financial foreign entity after such date, unless (i) the foreign financial institution undertakes certain diligence and reporting obligations or (ii) the non-financial foreign entity either certifies it does not have any substantial United States owners or furnishes identifying information regarding each substantial United States owner. If the payee is a foreign financial institution, it must enter into an agreement with the United States Treasury requiring, among other things, that it undertake to identify accounts held by certain United States persons or United States-owned foreign entities, annually report certain information about such accounts, and withhold 30% on payments to account holders whose actions prevent it from complying with these reporting and other requirements. Prospective investors should consult their tax advisors regarding these rules.

## UNDERWRITING

Merrill Lynch, Pierce, Fenner & Smith Incorporated, Citigroup Global Markets Inc. and J.P. Morgan Securities LLC are acting as representatives of each of the underwriters named below. Subject to the terms and conditions set forth in an underwriting agreement among us and the underwriters, we have agreed to sell to the underwriters, and each of the underwriters has agreed, severally and not jointly, to purchase from us, the number of shares of common stock set forth opposite its name below.

<u>Underwriter</u>	<u>Number of Shares</u>
Merrill Lynch, Pierce, Fenner & Smith Incorporated	
Citigroup Global Markets Inc.	
J.P. Morgan Securities LLC	
Credit Suisse Securities (USA) LLC	
Morgan Stanley & Co. Incorporated	
Goldman, Sachs & Co.	
Total	

Subject to the terms and conditions set forth in the underwriting agreement, the underwriters have agreed, severally and not jointly, to purchase all of the shares sold under the underwriting agreement if any of these shares are purchased. If an underwriter defaults, the underwriting agreement provides that the purchase commitments of the nondefaulting underwriters may be increased or the underwriting agreement may be terminated.

We have agreed to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act, or to contribute to payments the underwriters may be required to make in respect of those liabilities.

The underwriters are offering the shares, subject to prior sale, when, as and if issued to and accepted by them, subject to approval of legal matters by their counsel, including the validity of the shares, and other conditions contained in the underwriting agreement, such as the receipt by the underwriters of officers' certificates and legal opinions. The underwriters reserve the right to withdraw, cancel or modify offers to the public and to reject orders in whole or in part.

The representatives have advised us that the underwriters propose initially to offer the shares to the public at the public offering price set forth on the cover page of this prospectus and to dealers at that price less a concession not in excess of \$ \_\_\_\_\_ per share. After the initial offering, the public offering price, concession or any other term of the offering may be changed.

The following table shows the public offering price, underwriting discount and proceeds before expenses to us. The information assumes either no exercise or full exercise by the underwriters of their overallotment option.

	<u>Per Share</u>	<u>Without Option</u>	<u>With Option</u>
Public offering price	\$	\$	\$
Underwriting discount	\$	\$	\$
Proceeds, before expenses, to us	\$	\$	\$

The expenses of the offering, not including the underwriting discount, are estimated at \$ \_\_\_\_\_ million and are payable by us.

We have granted an option to the underwriters to purchase up to \_\_\_\_\_ additional shares at the public offering price, less the underwriting discount. The underwriters may exercise this option for 30 days from the date of this prospectus solely to cover any overallotments. If the underwriters exercise this option, each will be obligated, subject to conditions contained in the underwriting agreement, to purchase a number of additional shares proportionate to that underwriter's initial amount reflected in the above table.

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We, our executive officers and directors and our existing security holders have agreed, subject to certain exceptions, not to sell or transfer any common stock or securities convertible into, exchangeable for, exercisable for, or repayable with common stock, for 180 days after the date of this prospectus without first obtaining the written consent of \_\_\_\_\_ . Specifically, we and these other persons have agreed, with certain limited exceptions, not to directly or indirectly:

- offer, pledge, sell or contract to sell any common stock,
- sell any option or contract to purchase any common stock,
- purchase any option or contract to sell any common stock,
- grant any option, right or warrant for the sale of any common stock,
- lend or otherwise dispose of or transfer any common stock,
- request or demand that we file a registration statement related to the common stock, or
- enter into any swap or other agreement that transfers, in whole or in part, the economic consequence of ownership of any common stock whether any such swap or transaction is to be settled by delivery of shares or other securities, in cash or otherwise.

This lock-up provision applies to common stock and to securities convertible into or exchangeable or exercisable for or repayable with common stock. In the event that either (x) during the last 17 days of the lock-up period referred to above, we issue an earnings release or material news or a material event relating to us occurs or (y) prior to the expiration of the lock-up period, we announce that we will release earnings results or become aware that material news or a material event will occur during the 16-day period beginning on the last day of the lock-up period, the restrictions described above shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

We will apply to list our common stock on \_\_\_\_\_ under the symbol “\_\_\_\_\_.”

Before this offering, there has been no public market for our common stock. The initial public offering price will be determined through negotiations between us and the representatives. In addition to prevailing market conditions, the factors to be considered in determining the initial public offering price are:

- the valuation multiples of publicly traded companies that the representatives believe to be comparable to us,
- our financial information,
- the history of, and the prospects for, the Company and the industry in which we compete,
- an assessment of our management, its past and present operations, and the prospects for, and timing of, our future net sales,
- the present state of our development, and
- the above factors in relation to market values and various valuation measures of other companies engaged in activities similar to ours.

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An active trading market for the shares may not develop. It is also possible that after the offering the shares will not trade in the public market at or above the initial public offering price.

The underwriters do not expect to sell more than 5% of the shares in the aggregate to accounts over which they exercise discretionary authority.

Until the distribution of the shares is completed, SEC rules may limit underwriters and selling group members from bidding for and purchasing our common stock. However, the representatives may engage in transactions that stabilize the price of the common stock, such as bids or purchases to peg, fix or maintain that price.

In connection with the offering, the underwriters may purchase and sell our common stock in the open market. These transactions may include short sales, purchases on the open market to cover positions created by short sales and stabilizing transactions. Short sales involve the sale by the underwriters of a greater number of shares than they are required to purchase in the offering. "Covered" short sales are sales made in an amount not greater than the underwriters' overallotment option described above. The underwriters may close out any covered short position by either exercising their overallotment option or purchasing shares in the open market. In determining the source of shares to close out the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the overallotment option. "Naked" short sales are sales in excess of the overallotment option. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of our common stock in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of various bids for or purchases of shares of common stock made by the underwriters in the open market prior to the completion of the offering.

The underwriters may also impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of such underwriter in stabilizing or short covering transactions.

Similar to other purchase transactions, the underwriters' purchases to cover the syndicate short sales may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of our common stock. As a result, the price of our common stock may be higher than the price that might otherwise exist in the open market. The underwriters may conduct these transactions on the exchange on which our common stock is listed, in the over-the-counter market or otherwise.

Neither we nor any of the underwriters make any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of our common stock. In addition, neither we nor any of the underwriters make any representation that the representatives will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

In connection with the offering, certain of the underwriters or securities dealers may distribute prospectuses by electronic means, such as e-mail. In addition, the representatives may facilitate Internet distribution for this offering to certain of its Internet subscription customers. The representatives may allocate a limited number of shares for sale to its online brokerage customers. An electronic prospectus is available on Internet web sites maintained by the representatives. Other than the prospectus in electronic format, the information on the web sites of the representatives is not part of this prospectus.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. Certain of the underwriters and their respective affiliates have, from time to time, performed, and may in the future perform, various financial advisory, investment banking, commercial banking and other services for us for which they received or will receive customary fees and expenses. Furthermore, certain of the underwriters and their respective affiliates may, from time to time, enter into arms-length transactions with us in the ordinary course of their business.

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In the ordinary course of their various business activities, the underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and/or instruments of the issuer. The underwriters and their respective affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

Citigroup Global Markets Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated were initial purchasers in connection with our October 2007 offering of the Senior Cash Pay Notes and the Senior Toggle Notes.

Affiliates of Citigroup Global Markets Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated are lenders and/or agents under the Senior Secured Credit Facility.

In addition, we have entered into an interest rate swap agreement with an affiliate of Merrill Lynch, Pierce, Fenner & Smith Incorporated.

### **Notice to Prospective Investors in the EEA**

In relation to each member state of the European Economic Area which has implemented the Prospectus Directive (each, a “Relevant Member State”), including each Relevant Member State that has implemented the 2010 PD Amending Directive with regard to persons to whom an offer of securities is addressed and the denomination per unit of the offer of securities (each, an “Early Implementing Member State”), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the “Relevant Implementation Date”), no offer of shares will be made to the public in that Relevant Member State (other than offers (the “Permitted Public Offers”) where a prospectus will be published in relation to the shares that has been approved by the competent authority in a Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive), except that with effect from and including that Relevant Implementation Date, offers of shares may be made to the public in that Relevant Member State at any time:

A. to “qualified investors” as defined in the Prospectus Directive, including:

(a)(in the case of Relevant Member States other than Early Implementing Member States), legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities, or any legal entity which has two or more of (i) an average of at least 250 employees during the last financial year; (ii) a total balance sheet of more than €43.0 million and (iii) an annual turnover of more than €50.0 million as shown in its last annual or consolidated accounts; or

(b)(in the case of Early Implementing Member States), persons or entities that are described in points (1) to (4) of Section I of Annex II to Directive 2004/39/EC, and those who are treated on request as professional clients in accordance with Annex II to Directive 2004/39/EC, or recognized as eligible counterparties in accordance with Article 24 of Directive 2004/39/EC unless they have requested that they be treated as non-professional clients; or

B. to fewer than 100 (or, in the case of Early Implementing Member States, 150) natural or legal persons (other than “qualified investors” as defined in the Prospectus Directive), as permitted in the Prospectus Directive, subject to obtaining the prior consent of the representatives for any such offer; or

C. in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of shares shall result in a requirement for the publication of a prospectus pursuant to Article 3 of the Prospectus Directive or of a supplement to a prospectus pursuant to Article 16 of the Prospectus Directive.

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Each person in a Relevant Member State (other than a Relevant Member State where there is a Permitted Public Offer) who initially acquires any shares or to whom any offer is made will be deemed to have represented, acknowledged and agreed that (A) it is a “qualified investor”, and (B) in the case of any shares acquired by it as a financial intermediary, as that term is used in Article 3(2) of the Prospectus Directive, (x) the shares acquired by it in the offering have not been acquired on behalf of, nor have they been acquired with a view to their offer or resale to, persons in any Relevant Member State other than “qualified investors” as defined in the Prospectus Directive, or in circumstances in which the prior consent of the Subscribers has been given to the offer or resale, or (y) where shares have been acquired by it on behalf of persons in any Relevant Member State other than “qualified investors” as defined in the Prospectus Directive, the offer of those shares to it is not treated under the Prospectus Directive as having been made to such persons.

In addition, in the United Kingdom, this document is being distributed only to, and is directed only at, and any offer subsequently made may only be directed at persons who are “qualified investors” (as defined in the Prospectus Directive) (i) who have professional experience in matters relating to investments falling within Article 19 (5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended (the “Order”) and/or (ii) who are high net worth companies (or persons to whom it may otherwise be lawfully communicated) falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as “relevant persons”). This document must not be acted on or relied on in the United Kingdom by persons who are not relevant persons. In the United Kingdom, any investment or investment activity to which this document relates is only available to, and will be engaged in with, relevant persons.

For the purpose of the above provisions, the expression “an offer to the public” in relation to any shares in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer of any shares to be offered so as to enable an investor to decide to purchase any shares, as the same may be varied in the Relevant Member State by any measure implementing the Prospectus Directive in the Relevant Member State and the expression “Prospectus Directive” means Directive 2003/71 EC (including the 2010 PD Amending Directive, in the case of Early Implementing Member States) and includes any relevant implementing measure in each Relevant Member State and the expression “2010 PD Amending Directive” means Directive 2010/73/EU.

### **Notice to Prospective Investors in Switzerland**

The Shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange (“SIX”) or on any other stock exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the Shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the Issuer, the Shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of Shares will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA (FINMA), and the offer of Shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes (“CISA”). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of Shares.

### **Notice to Prospective Investors in the Dubai International Financial Centre**

This document relates to an exempt offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority (“DFSA”). This document is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with exempt

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offers. The DFSA has not approved this document nor taken steps to verify the information set forth herein and has no responsibility for it. The shares to which this document relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the shares offered should conduct their own due diligence on the shares. If you do not understand the contents of this document you should consult an authorized financial advisor.

### **Notice to Prospective Investors in Hong Kong**

This prospectus has not been approved by or registered with the Securities and Futures Commission of Hong Kong or the Registrar of Companies of Hong Kong. The shares will not be offered or sold in Hong Kong other than (a) to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the shares which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) has been issued or will be issued in Hong Kong or elsewhere other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

### **Notice to Prospective Investors in Singapore**

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act (Chapter 289) (the “SFA”), (ii) to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA. Where the shares are subscribed or purchased under Section 275 by a relevant person which is: (a) a corporation (which is not an accredited investor) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an accredited investor, then shares, debentures and units of shares and debentures of that corporation or the beneficiaries’ rights and interest in that trust shall not be transferable for 6 months after that corporation or that trust has acquired the shares under Section 275 except: (i) to an institutional investor under Section 274 of the SFA or to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA; (ii) where no consideration is given for the transfer; or (iii) by operation of law.

### **Notice to Prospective Investors in Japan**

The shares have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) and, accordingly, will not be offered or sold, directly or indirectly, in Japan, or for the benefit of any Japanese Person or to others for re-offering or resale, directly or indirectly, in Japan or to any Japanese Person, except in compliance with all applicable laws, regulations and ministerial guidelines promulgated by relevant Japanese governmental or regulatory authorities in effect at the relevant time. For the purposes of this paragraph, “Japanese Person” shall mean any person resident in Japan, including any corporation or other entity organized under the laws of Japan.

## **VALIDITY OF COMMON STOCK**

The validity of the shares being sold in this offering will be passed upon for us by Latham & Watkins LLP, Washington, D.C. Certain legal matters relating to this offering will be passed upon for the underwriters by Cleary Gottlieb Steen & Hamilton LLP, New York, NY.

## **EXPERTS**

The consolidated financial statements as of December 31, 2010 and 2009 and for each of the three years in the period ended December 31, 2010 included in this prospectus have been so included in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

## **WHERE YOU CAN FIND MORE INFORMATION**

We have filed with the SEC a registration statement on Form S-1 pursuant to the Securities Act of 1933, as amended, covering the common stock being offered hereby. This prospectus, which constitutes part of the registration statement, does not contain all the information set forth in the registration statement. For further information about us and the common stock we propose to sell in this offering, we refer you to the registration statement and the exhibits and schedules filed as a part of the registration statement. Statements contained in this prospectus as to the contents of any contract or other document filed as an exhibit to the registration statement are not necessarily complete. If a contract or document has been filed as an exhibit to the registration statement, we refer you to the copy of the contract or document that has been filed.

You may inspect a copy of the registration statement and the exhibits and schedules to the registration statement without charge at the Public Reference Room of the SEC at 100 F Street, NE, Washington, DC 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. You can receive copies of these documents upon payment of a duplicating fee by writing to the SEC. The SEC maintains a web site at [www.sec.gov](http://www.sec.gov) that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC. You can also inspect our registration statement on this web site.

Upon completion of this offering, we will become subject to the information and reporting requirements of the Exchange Act pursuant to Section 13 thereof. Our filings with the SEC (other than those exhibits specifically incorporated by reference into the registration statement of which this prospectus forms a part) are not incorporated by reference into this prospectus.

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Stockholders of Allison Transmission Holdings, Inc.:

In our opinion, the accompanying consolidated balance sheets and the related consolidated statements of operations, cash flows and stockholders' equity (deficit) present fairly, in all material respects, the financial position of Allison Transmission Holdings, Inc. and its subsidiaries at December 31, 2010 and December 31, 2009, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2010 in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

/s/ PricewaterhouseCoopers LLP

Indianapolis, Indiana  
March 18, 2011

**Allison Transmission Holdings, Inc.**  
**Consolidated Balance Sheets**  
**(dollars in millions, except share data)**

	December 31, 2010	December 31, 2009
<b>ASSETS</b>		
Current Assets		
Cash and cash equivalents	\$ 252.2	\$ 153.1
Accounts receivables — net of allowance for doubtful accounts of \$2.8 and \$1.8, respectively	171.1	196.9
Inventories	147.9	136.7
Other current assets	74.3	26.6
Total Current Assets	645.5	513.3
Property, plant & equipment — net	595.3	621.1
Intangible assets — net	2,018.1	2,172.0
Goodwill	1,941.0	1,941.0
Other non-current assets	110.5	163.4
<b>TOTAL ASSETS</b>	<b>\$ 5,310.4</b>	<b>\$ 5,410.8</b>
<b>LIABILITIES</b>		
Current Liabilities		
Accounts payable	\$ 138.3	\$ 135.4
Warranty liability	35.7	34.1
Current portion of long term debt	31.0	31.0
Notes payable	2.4	2.2
Deferred revenue	14.8	12.4
Other current liabilities	195.3	178.5
Total Current Liabilities	417.5	393.6
Warranty liability	92.8	141.6
Deferred revenue	41.4	32.3
Long term debt	3,637.7	3,840.9
Deferred income taxes	175.3	120.9
Other non-current liabilities	204.0	144.9
<b>TOTAL LIABILITIES</b>	<b>4,568.7</b>	<b>4,674.2</b>
Commitments and contingencies (see NOTE 16)		
<b>STOCKHOLDERS' EQUITY</b>		
Common stock, \$0.01 par value, 180,000,000 shares authorized, 149,500,000 issued and outstanding	1.5	1.5
Non-voting common stock, \$0.01 par value, 20,000,000 shares authorized, 3,579,740 issued and 3,559,740 outstanding	—	—
Preferred stock, \$0.01 par value, 20,000,000 shares authorized, none issued and outstanding	—	—
Treasury stock	(0.2)	(0.2)
Paid in capital	1,553.1	1,544.6
Accumulated deficit	(786.7)	(816.3)
Accumulated other comprehensive (loss) income, net of tax	(26.0)	7.0
<b>TOTAL STOCKHOLDERS' EQUITY</b>	<b>741.7</b>	<b>736.6</b>
<b>TOTAL LIABILITIES &amp; STOCKHOLDERS' EQUITY</b>	<b>\$ 5,310.4</b>	<b>\$ 5,410.8</b>

The accompanying notes are an integral part of the consolidated financial statements.

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**Allison Transmission Holdings, Inc.**  
**Consolidated Statements of Operations**  
**(dollars in millions, except share data)**

	Year ended December 31,		
	2010	2009	2008
Net sales	\$1,926.3	\$1,766.7	\$2,061.4
Cost of sales	1,098.1	1,146.9	1,325.5
<b>Gross profit</b>	<b>828.2</b>	619.8	735.9
Selling, general and administrative expenses	384.9	391.2	412.6
Engineering — research and development	101.5	89.7	88.6
Trade name impairment	—	190.0	179.8
<b>Operating income (loss)</b>	<b>341.8</b>	(51.1)	54.9
Interest income	3.5	1.4	5.1
Interest expense	(281.0)	(235.6)	(391.0)
Other income, net	19.0	2.8	40.0
<b>Income (Loss) before income taxes</b>	<b>83.3</b>	(282.5)	(291.0)
Income tax expense	(53.7)	(41.4)	(37.1)
<b>Net income (loss)</b>	<b>\$ 29.6</b>	<b>\$ (323.9)</b>	<b>\$ (328.1)</b>
Basic and diluted earnings (loss) per share attributable to common stockholders	<u>\$ 0.19</u>	<u>\$ (2.12)</u>	<u>\$ (2.14)</u>

The accompanying notes are an integral part of the consolidated financial statements.

**Allison Transmission Holdings, Inc.**  
**Consolidated Statements of Cash Flows**  
(dollars in millions)

	Year ended December 31,		
	2010	2009	2008
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net income (loss)	\$ 29.6	\$(323.9)	\$(328.1)
Add (deduct) items included in net income (loss) not using (providing) cash:			
Amortization of intangible assets	154.2	155.9	156.5
Depreciation of property, plant and equipment	99.6	105.9	106.6
Deferred income taxes	51.5	37.3	30.5
Unrealized loss (gain) on derivatives	28.8	(30.3)	59.7
Amortization of deferred financing costs	11.6	12.3	12.9
Stock-based compensation	8.5	7.3	7.1
Gain on repurchases of long-term debt	(3.3)	(8.9)	(21.0)
Accretion of assumed non-current assets and liabilities	1.0	5.0	8.6
Trade name impairment	—	190.0	179.8
Loss on Old GM OPEB Receivable	—	36.6	—
Capitalized accrued interest on Senior Toggle Notes	—	28.6	—
Restructuring charges	—	12.6	—
Realized gain on interest rate derivatives	—	(4.9)	—
Pension curtailment adjustment	—	(1.3)	—
Net change in Old GM OPEB Receivable / Payable	—	—	(14.6)
Other	1.1	0.3	(0.3)
Changes in assets and liabilities:			
Accounts receivable	23.7	11.8	66.1
Inventories	(11.8)	18.1	24.2
Accounts payable	3.2	(53.1)	(18.4)
Other assets and liabilities	(8.8)	(30.6)	(1.5)
Net cash provided by operating activities	<b>388.9</b>	<b>168.7</b>	<b>268.1</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Additions of long-lived assets	(73.8)	(88.2)	(75.3)
Collateral for interest rate derivatives	(21.8)	(22.0)	—
Purchase of available-for-sale securities	—	(3.4)	—
Proceeds from disposal of assets	0.3	0.4	0.4
Net cash used for investing activities	<b>(95.3)</b>	<b>(113.2)</b>	<b>(74.9)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Net capital contribution	—	—	0.4
Repurchases of long-term debt	(91.9)	(74.3)	(115.2)
Payments on long-term debt	(106.0)	(52.2)	(73.3)
Payments on notes payable	—	(8.9)	—
Net cash used for financing activities	<b>(197.9)</b>	<b>(135.4)</b>	<b>(188.1)</b>
Effect of exchange rate changes on cash	3.4	(4.9)	1.7
Net increase (decrease) in cash and cash equivalents	<b>99.1</b>	<b>(84.8)</b>	<b>6.8</b>
Cash and cash equivalents at beginning of period	<u>153.1</u>	<u>237.9</u>	<u>231.1</u>
Cash and cash equivalents at end of period	<b><u>\$ 252.2</u></b>	<b><u>\$ 153.1</u></b>	<b><u>\$ 237.9</u></b>
Supplemental disclosures:			
Interest paid	\$ 239.1	\$ 242.5	\$ 334.2
Income taxes paid	\$ 2.2	\$ 5.5	\$ 4.3

The accompanying notes are an integral part of the consolidated financial statements.

**Allison Transmission Holdings, Inc.**  
**Consolidated Statements of Stockholders' Equity (Deficit)**  
(dollars in millions)

	Common Stock	Non- voting Common Stock	Preferred Stock	Treasury Stock	Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss), net of tax	Stockholders' Equity
Balance at December 31, 2007	\$ 1.5	\$ —	\$ —	\$ —	\$1,529.6	\$ (164.3)	\$ 5.8	\$ 1,372.6
Additional investment	—	—	—	—	0.6	—	—	0.6
Treasury stock purchase	—	—	—	(0.2)	—	—	—	(0.2)
Stock-based compensation	—	—	—	—	7.1	—	—	7.1
Pension and OPEB liability adjustment	—	—	—	—	—	—	(36.1)	(36.1)
Foreign currency translation adjustment	—	—	—	—	—	—	(0.4)	(0.4)
Net loss	—	—	—	—	—	(328.1)	—	(328.1)
Balance at December 31, 2008	\$ 1.5	\$ —	\$ —	\$ (0.2)	\$1,537.3	\$ (492.4)	\$ (30.7)	\$ 1,015.5
Stock-based compensation	—	—	—	—	7.3	—	—	7.3
Pension and OPEB liability adjustment	—	—	—	—	—	—	34.5	34.5
Foreign currency translation adjustment	—	—	—	—	—	—	1.7	1.7
Available-for-sale securities	—	—	—	—	—	—	1.5	1.5
Net loss	—	—	—	—	—	(323.9)	—	(323.9)
Balance at December 31, 2009	\$ 1.5	\$ —	\$ —	\$ (0.2)	\$1,544.6	\$ (816.3)	\$ 7.0	\$ 736.6
Additional investment	—	—	—	—	0.1	—	—	0.1
Stock-based compensation	—	—	—	—	8.4	—	—	8.4
Pension and OPEB liability adjustment	—	—	—	—	—	—	(31.9)	(31.9)
Foreign currency translation adjustment	—	—	—	—	—	—	0.1	0.1
Available-for-sale securities	—	—	—	—	—	—	(1.2)	(1.2)
Net income	—	—	—	—	—	29.6	—	29.6
Balance at December 31, 2010	<u>\$ 1.5</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ (0.2)</u>	<u>\$1,553.1</u>	<u>\$ (786.7)</u>	<u>\$ (26.0)</u>	<u>\$ 741.7</u>

The accompanying notes are an integral part of the consolidated financial statements.

**Allison Transmission Holdings, Inc.**  
**Notes to Consolidated Financial Statements**

**NOTE 1. OVERVIEW**

***Overview***

Allison Transmission Holdings, Inc. and its subsidiaries (the “Company,” “Successor,” “our,” “us,” “we” or “Allison”), design and manufacture commercial and military fully-automatic transmissions.

The business was founded in 1915 and has been headquartered in Speedway, Indiana since inception. The Company has approximately 2,750 employees and 12 different transmission product lines. Although approximately 82% percent of revenues are generated in North America, the Company has a global presence by serving customers in Europe, Asia, South America and Africa. The Company serves customers through an independent network of approximately 1,500 independent distributor and dealer locations worldwide.

Since the introduction of the Company’s first fully-automatic transmission over 60 years ago, the Company’s products have gained acceptance in a variety of applications, including on-highway trucks (distribution, refuse, construction, fire and emergency), buses (primarily school and transit), motor homes, off-highway vehicles and equipment (primarily energy, mining and construction) and military vehicles (wheeled and tracked). The Company has developed over 100 different product models that are used in more than 2,500 different vehicle configurations, which are compatible with more than 500 combinations of engine brands, models and ratings. The Company also sells support equipment and Allison-branded replacement parts for the Company’s transmissions and remanufactured transmissions for use in the vehicle aftermarket.

***History***

The Company was formerly known as Allison Transmission (the “Predecessor”), an operating unit of General Motors Corporation, which, in the course of its bankruptcy proceeding was renamed Motors Liquidation Company (“Old GM”). On August 7, 2007 (the “Acquisition Date”), substantially all of the assets and liabilities of the Predecessor were acquired by the Company, under an Asset Purchase Agreement (the “Asset Purchase Agreement”) dated June 28, 2007 and entered into between Clutch Operating Company, Inc., a Delaware corporation owned by investment funds affiliated with The Carlyle Group and Onex Corporation (collectively the “Sponsors”), and Old GM, the direct parent of the Predecessor, pursuant to which the Company acquired certain equity interests of, and certain assets and liabilities held by, direct and indirect operating subsidiaries of Old GM (the “Acquisition Transaction”). After completion of the Acquisition Transaction, Clutch Holdings, Inc., changed its name to Allison Transmission Holdings, Inc. (“Holdings”) and Clutch Operating Company, Inc. changed its name to Allison Transmission, Inc. In addition to the Asset Purchase Agreement, the Company entered into a Transition Services Agreement (the “Transition Services Agreement”) under which Old GM provided services to the Company. The agreement covered such services as information technology, human resources, payroll, Accounts receivable, Accounts payable and some engineering, among others, and generally allowed up to 18 months of transitional services depending on the service and the Company’s ability to develop such services on its own.

On July 10, 2009, General Motors Company (“GM”) emerged from bankruptcy. On August 3, 2009, the Company and GM finalized an agreement (the “Cure Agreement”), pursuant to which GM assumed certain contracts and agreements between the Company and Old GM, including among others, the Asset Purchase Agreement, the Transition Services Agreement and certain other intellectual property and software license agreements, lease agreements, engineering services agreements, proving grounds use agreements, an employee matter agreement, a contract manufacturing agreement and a hybrid co-branding agreement. GM also assumed certain other commercial contracts, arrangements and purchase orders with the Company in connection with conducting its business.

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 1. OVERVIEW (Continued)**

***Recent Developments***

During the fourth quarter of 2010, the Company and General Motors — Powertrain Hungary, Ltd. (“GM-PTH”) entered into an agreement to terminate a current contract manufacturing agreement related to production of its medium- and heavy-duty transmissions. The current agreement has been replaced with a new agreement that will expire in the second quarter of 2016. As part of the new agreement, the Company will provide a facility and inventory components for production of Allison transmissions while GM-PTH will provide the personnel and technical resources to manufacture the transmissions. The Company commenced construction of a new facility in Szentgotthard, Hungary in the fourth quarter of 2010 and expects to be completed with the facility by 2011. Production at the facility is expected to begin during 2011.

During the fourth quarter of 2010, the Company committed to expand its production in its Chennai, India facility by manufacturing components for our global manufacturing operations as well as assembling transmission products for emerging markets. Production is expected to commence during the second half of 2012.

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Basis of Presentation and Principles of Consolidation***

The consolidated financial statements as of December 31, 2010 and 2009 have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”). The information herein reflects all normal recurring material adjustments, which are, in the opinion of management, necessary for the fair presentation of the results for the periods presented. The consolidated financial statements herein consist of all wholly-owned domestic and foreign subsidiaries with all significant intercompany transactions eliminated.

These consolidated financial statements present the results of operations, financial position, cash flows and statements of equity. Certain reclassifications have been made in the consolidated financial statements of prior years to conform to the current year presentation. These reclassifications have no impact on previously reported net income, total stockholders’ equity or cash flows.

***Use of Estimates***

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities and the reported amounts of revenue and expenses. Significant estimates include, but are not limited to, allowance for doubtful accounts, sales allowances, fair market values and future cash flows associated with Goodwill, indefinite life intangibles, long-lived asset impairment tests, useful lives for depreciation and amortization, warranty liability, determination of discount and other assumptions for pension and other post-retirement benefit (“OPEB”) expense, income taxes and deferred tax valuation allowances, lease classification, derivative valuation, and contingencies. The Company’s accounting policies involve the application of judgments and assumptions made by management that include inherent risks and uncertainties. Actual results could differ materially from these estimates. Changes in estimates are recorded in results of operations in the period that the events or circumstances giving rise to such changes occur.

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

***Segment Reporting***

In accordance with the FASB's authoritative accounting guidance on segment reporting, the Company has one operating segment and reportable segment. The Company is in one business, which is in the manufacturing and distribution of fully-automatic transmissions.

***Government Grants***

The Company recognizes government grants when there is reasonable assurance that the Company will comply with the conditions attached to the grant arrangement and the funds will be received. When the government grants relate to reimbursement of costs, the grant income is recognized in Other income, net in the Consolidated Statements of Operations. When the government grants relate to a reimbursement of capital expenditures, the grants are recognized as a reduction of the basis of the assets in the Consolidated Balance Sheets.

***Cash and Cash Equivalents***

Cash equivalents are defined as short-term, highly-liquid investments with original maturities of 90 days or less. Under the Company's cash management system, checks issued but not presented to banks may result in book overdraft balances for accounting purposes and are classified within Accounts payable in the Consolidated Balance Sheets. The change in book overdrafts is reported as a component of operating cash flows for Accounts payable.

***Marketable Securities***

The Company determines the appropriate classification of all marketable securities as "held-to-maturity," "available-for-sale" or "trading" at the time of purchase, and re-evaluate such classifications as of each balance sheet date. As of December 31, 2010, the Company's only marketable security was classified as available-for-sale.

Available-for-sale securities are carried at fair value with the unrealized gain or loss, net of tax, reported in Accumulated other comprehensive income ("AOCI"). Unrealized losses considered to be "other-than-temporary" are recognized in income. The fair value of the Company's investment securities is determined by currently available market prices. See NOTE 6 for more details.

***Allowance for Doubtful Accounts***

The allowance for doubtful trade accounts receivable reflects estimated losses to be incurred in the collection of the receivables. Estimated losses are based on historical collection experience as well as a review by management of the current status of all receivables. Account balances are charged against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote.

***Inventories***

Inventories are stated at the lower of cost or market. The Company determines cost using the first-in, first-out method. The Company analyzes inventory on a periodic basis to determine whether it is excess or

**Allison Transmission Holdings, Inc.****Notes to Consolidated Financial Statements — (Continued)****NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

obsolete inventory. Any decline in carrying value of estimated excess or obsolete inventory is recorded as a reduction of inventory and as an expense included in Cost of sales in the period it is identified.

***Property, Plant and Equipment***

Property, plant and equipment are recorded at cost less accumulated depreciation. Depreciation expense is recorded using the straight-line method over the following estimated lives:

	<u>Range in Years</u>
Land improvements	5 – 30
Buildings and building improvements	10 – 40
Machinery and equipment	2 – 20
Software	2 – 5
Special tools	2 – 10

Software represents the costs of software developed or obtained for internal use. Software costs are amortized on a straight-line basis over their estimated useful lives. Software assets are reviewed for impairment when events or circumstances indicate that the carrying value may not be recoverable over the remaining lives of the assets. Upgrades and enhancements are capitalized if they result in added functionality, which enables the software to perform tasks it was previously incapable of performing. Software maintenance, training, data conversion and business process reengineering costs are expensed in the period in which they are incurred.

Special tooling represents the costs to design and develop tools, dies, jigs and other items owned by the Company and used in the manufacture of components by suppliers under long-term supply agreements. Special tooling is depreciated over the tool's expected life. Special tooling used in the development of new technology is expensed as incurred. Engineering, testing and other costs incurred in the design and development of production parts are expensed as incurred.

***Impairment of Long-Lived Assets***

The carrying value of long-lived assets is evaluated whenever events or circumstances indicate that the carrying value of an asset may not be recoverable. Events or circumstances that would result in an impairment review primarily include a significant change in the use of an asset, or the planned sale or disposal of an asset. The asset would be considered impaired when the future net undiscounted cash flows generated by the asset are less than its carrying value. An impairment loss would be recognized based on the amount by which the carrying value of the assets exceeds its fair value.

Assumptions and estimates used to determine cash flows in the evaluation of impairment and the fair values used to determine the impairment are subject to a degree of judgment and complexity. Any changes to the assumptions and estimates resulting from changes in actual results or market conditions from those anticipated may affect the carrying value of long-lived assets and could result in an impairment charge.

***Goodwill and Other Intangible Assets***

Goodwill represents the excess of purchase price paid over the fair value of net assets acquired. In accordance with the Financial Accounting Standards Board ("FASB") authoritative accounting guidance on Goodwill and Other intangibles, the Company does not amortize Goodwill but rather evaluates it for impairment

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

on an annual basis or more often if events or circumstances change that could cause Goodwill to become impaired. The Company has elected to perform its annual impairment test on October 31 of every year.

Other intangible assets have both indefinite and finite useful lives. Intangible assets with indefinite useful lives are not amortized but are tested annually on October 31 for impairment or more often if events or circumstances change that could cause impairment. The Company has one indefinite life intangible, its Trade name. Intangible assets with finite lives are amortized over their estimated useful lives and reviewed for impairment when circumstances change that would create a triggering event. Customer relationships are amortized over the life in which expected benefits are to be consumed. The remaining finite useful life intangibles are amortized on a straight-line basis over their useful lives. The Company evaluates the remaining useful life of intangible assets on a periodic basis to determine whether events or circumstances warrant a revision to the remaining useful life.

The result of the 2010 annual impairment test indicated that the fair value of Goodwill and Trade name each exceeded its carrying, or book value, and therefore the recorded Goodwill and Trade name were not subject to impairment.

In the second quarter of 2009, the Company recorded a Trade name impairment charge of \$190.0 million. The impairment charge was triggered by lower projected Net sales as a result of weak general economic conditions at that time.

In the fourth quarter of 2008, the Company recorded a Trade name impairment charge of \$179.8 million as a result of its annual impairment test. The impairment was driven principally by an increase in the discount factor that was in effect on the measurement date and lower projected Net sales as a result of general economic conditions at that time.

The valuation of the Trade name intangible was derived from an income approach by which the relief from royalty method was applied valuing the savings as cash flow. The relief from royalty method requires assumptions be made concerning forecasted Net sales, a discount rate, and a royalty rate. The underlying concept of the relief from royalty method is that the value of the Trade name can be estimated by determining the cost savings the Company achieves by not having to license the Trade name. Changes in projections or estimates, a deterioration of operating results and the related cash flow effect or a significant increase in the discount rate could decrease the estimated fair value and result in future impairments. NOTE 5 provides further information on Goodwill and Other intangible assets.

***Deferred Financing Costs***

Deferred financing costs are stated at cost as a component of other non-current assets and amortized over the life of the related debt using the effective interest method. Amortization of deferred financing costs is recorded as part of interest expense and totaled \$11.6 million, \$12.3 million and \$12.9 million for the years ended December 31, 2010, 2009 and 2008, respectively.

***Financial Instruments***

The Company's cash equivalents are invested in U.S. Government backed securities and recorded at fair value in the Consolidated Balance Sheets.

The carrying values of Accounts receivable, Accounts payable and short-term debt approximate fair value due to their short-term nature.

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

The Company's financial derivative instruments including interest rate swaps, foreign currency and commodity forward contracts are carried at fair values on the Consolidated Balance Sheets. Refer to NOTE 6 for more detail.

The Company's long-term debt obligations are carried at historical amounts with the Company providing fair value disclosure in NOTE 7.

***Insurable Liabilities***

The Company records liabilities for its medical, workers' compensation, long-term disability, product, general and auto liabilities. The determination of these liabilities and related expenses is dependent on claims experience. For most of these liabilities, claims incurred but not yet reported are estimated based upon historical claims experience. In December 2008, the Company implemented an insurance-based coverage program for long-term disability, thus eliminating the requirement to record future liabilities related to long-term disability. However, employees on disability at the time of the change and remain on disability will continue to be covered under the Company's previous program.

***Revenue Recognition***

The Company records sales when title has transferred to the customer, there is evidence of an agreement, the sales price is fixed and determinable, and the collection of the related accounts receivable is reasonably assured. The Company sells extended transmission coverage ("ETC") for which sales are deferred. ETC sales are recognized ratably over the period of the ETC, which typically ranges from three to five years. Distributor and customer sales incentives, consisting of allowances and other rebates, are estimated at the time of sale based upon our history and experience and are recorded as a reduction to Net sales. Incentive programs are generally product specific or region specific. Some factors used in estimating the cost of incentives include the number of transmissions that will be affected by the incentive program and rate of acceptance of any incentive program. If the actual number of affected transmissions differs from this estimate, or if a different mix of incentives is actually paid, the impact on Net sales would be recorded in the period that the change was identified. Consideration to commercial customers recorded as a reduction of Net sales in the Consolidated Statements of Operations included \$55.6 million, \$61.1 million and \$73.9 million for the years ended December 31, 2010, 2009 and 2008, respectively.

Sales under U.S. government production contracts are recorded when the product is accepted and title has transferred to the U.S. government. Under the terms of the U.S. government contracts, there are certain price reduction clauses and provisions for potential price reductions which are estimated at the time of sale based upon our history and experience and are recorded as a reduction to net sales. Potential reductions may be attributed to a change in projected sales volumes or plant efficiencies which impact overall costs. As of December 31, 2010 and 2009, the Company had \$25.1 million and \$24.8 million recorded in the price reduction reserve account, respectively.

The Company classifies shipping and handling costs billed to customers in Net sales and shipping and handling costs in Cost of sales, in accordance with authoritative accounting guidance.

The Company contracts with various third parties to provide engineering services. These services are recorded as Net sales in accordance with the terms of the contract. The saleable engineering recorded was \$14.4 million, \$14.5 million and \$19.8 million for the years ended December 31, 2010, 2009 and 2008, respectively. The associated costs are recorded in Cost of sales.

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

Pursuant to an ancillary agreement between the Company and Old GM, assumed by GM, the parties provided engineering services to each other through 2010. The Company incurred \$0.0 million, \$4.7 million and \$8.4 million of expense related to the engineering service agreement offset by \$0.0 million, \$0.5 million and \$8.4 million of engineering revenue for the years ended December 31, 2010, 2009 and 2008, respectively.

***Warranty***

Provisions for estimated expenses related to product warranties are made at the time products are sold. Warranty claims arise when a transmission fails while in service during the relevant warranty period. The warranty reserve is provided for by adjusting Selling, general and administrative expenses by an amount based on the Company's current and historical warranty claims paid and associated repair costs. These estimates are established using historical information including the nature, frequency, and average cost of warranty claims and are adjusted as actual information becomes available. Costs associated with ETC programs are recorded as incurred during the extended warranty period. From time to time, the Company may get involved in a specific field action program. As a result of the uncertainty surrounding the nature and frequency of specific field action programs, the liability for such programs is recorded when the Company commits to an action. The Company reviews and assesses the liability for these programs on a quarterly basis. The Company also assesses its ability to recover certain costs from its suppliers and record a receivable from the supplier when it believes a recovery is probable.

The Company's current product warranty liabilities as of December 31, 2010 are made up of two components. The first is identified as the liabilities arising subsequent to the Acquisition Transaction and related to the Successor. The second is identified as the liabilities existing prior to the acquisition and related to the Predecessor. All deferred revenue recorded under the ETC program by the Predecessor was retained by Old GM at the time of the Acquisition Transaction. Thus, the Company recorded all pre-existing product warranty liabilities and estimated costs for ETC policies sold prior to the Acquisition Transaction at a present value with accretion recorded as part of Interest expense in the Consolidated Statements of Operations.

***Research and Development***

The Company incurs costs in connection with research and development programs that are expected to contribute to future earnings. Such costs are charged to Engineering — research and development as incurred.

***Foreign Currency Translation***

Most of the subsidiaries outside the United States prepare financial statements in currencies other than the U.S. dollar. The functional currency for all these subsidiaries is the local currency, except for the Company's Hong Kong subsidiary which currently uses the U.S. dollar as its functional currency and is translated at period-end exchange rates for assets and liabilities and monthly weighted-average exchange rates for revenues and expenses. The translation gains (losses) are stated as a component of AOCI as disclosed in NOTE 15.

***Derivative Instruments***

In the normal course of business, the Company is exposed to fluctuations in interest rates, foreign currency exchange rates, and commodity prices. The risk is managed through the use of financial derivative instruments including interest rate swaps, and foreign currency and commodity forward contracts. Despite the fact that the Company has not elected hedge accounting treatment on nearly all of its derivative instruments, the contracts are

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

used strictly as an economic hedge and not for speculative purposes. As necessary, the Company adjusts the values of the derivative instruments for counter-party or credit risk. NOTE 8 provides further information on the accounting treatment of the Company's derivative instruments.

***Income Taxes***

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the expected future tax consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. The future tax benefits associated with operating loss and tax credit carryforwards are recognized as deferred tax assets. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled.

The need to establish a valuation allowance against the deferred tax assets is assessed periodically based on a more-likely-than-not realization threshold, in accordance with the FASB's authoritative accounting guidance on income taxes. Appropriate consideration is given to all positive and negative evidence related to that realization. This assessment considers, among other matters, the nature, frequency and severity of recent losses, forecasts of future profitability, the duration of statutory carry forward periods, experience with tax attributes expiring unused, and tax planning alternatives. The weight given to these considerations depends upon the degree to which they can be objectively verified.

***Share-Based Compensation***

The Company maintains a stock-based compensation plan which allows employees (including executive officers), consultants and directors to receive awards of options to purchase shares of common stock. The Company has adopted the FASB's authoritative accounting guidance on share-based payments and recognizes the fair value of the awards under the modified prospective method of adoption. The accounting guidance also requires that forfeitures be estimated over the vesting period of an award instead of being recognized as a reduction of compensation expense when the forfeiture actually occurs.

***Pension and Post-retirement Benefit Plans***

For pension and OPEB plans in which employees participate, costs are determined within the FASB's authoritative accounting guidance set forth in employers' defined benefit pensions including accounting for settlements and curtailments of defined benefit pension plans, termination of benefits and accounting for post-retirement benefits other than pensions. In accordance with the authoritative accounting guidance, the Company recognizes the funded status of its defined benefit pension plans and OPEB plan in its Consolidated Balance Sheets with a corresponding adjustment to AOCI, net of tax.

Post-retirement benefit costs consist of service cost, interest cost on accrued obligations and the expected return on assets (calculated using a smoothed market value of assets). Any difference between actual and expected returns on assets during a year and actuarial gains and losses on liabilities together with any prior service costs are charged (or credited) to income over the average remaining service lives of employees.

The benefit cost components shown in the Consolidated Statements of Operations are based upon certain data specific to the Company, actuarial assumptions that were used for OPEB accounting disclosures, and certain allocation methodologies such as population demographics.

**Allison Transmission Holdings, Inc.****Notes to Consolidated Financial Statements — (Continued)****NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)*****Recently Adopted Accounting Pronouncements***

In January 2010, the FASB issued authoritative accounting guidance to require disclosure of transfers between the observable input categories and activity in the unobservable input category for fair value measurements. The guidance also requires disclosures about the inputs and valuation techniques used to measure fair value. This guidance became effective for companies interim and annual reporting periods beginning January 1, 2010. The Company's adoption of this accounting guidance did not have an impact on its financial condition and results of operations.

In October 2009, the FASB issued authoritative accounting guidance on multiple-deliverable arrangements to enable vendors to account for products and services (deliverables) separately rather than as a combined unit. The objective of the guidance is to address the timing of revenue recognition as it relates to the delivery of multiple products or services. It addresses how the vendor should separate deliverables and how to measure and allocate arrangement consideration to one or more units of accounting. If a vendor does not have appropriate evidence for the undelivered elements in an arrangement, the revenue associated with both delivered and undelivered elements are combined into one unit of accounting. Any revenue attributable to the delivered products is then deferred and recognized as the undelivered elements are delivered by the vendor. This guidance was effective prospectively for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010. Earlier adoption is permitted. The Company's adoption of this guidance on January 1, 2011 did not have a material impact on its consolidated financial statements.

**NOTE 3. INVENTORIES**

Inventories consisted of the following components (dollars in millions):

	December 31, 2010	December 31, 2009
Purchased parts and raw materials	\$ 67.2	\$ 74.6
Work in progress	7.1	8.0
Service parts	44.8	39.7
Finished goods	28.8	14.4
Total inventories	<u>\$ 147.9</u>	<u>\$ 136.7</u>

Inventory components shipped to third parties, primarily cores, parts to re-manufacturers, and contract manufacturers, in which the Company has an obligation to buyback, are included in purchased parts and raw materials, with an offsetting liability in Other current liabilities.

## Allison Transmission Holdings, Inc.

## Notes to Consolidated Financial Statements — (Continued)

**NOTE 4. PROPERTY, PLANT AND EQUIPMENT**

The cost and accumulated depreciation of property, plant and equipment are as follows (dollars in millions):

	December 31, 2010	December 31, 2009
Land and land improvements	\$ 15.0	\$ 12.7
Buildings and building improvements	212.5	205.7
Machinery and equipment	439.1	421.8
Software	79.8	74.5
Special tools	152.9	96.6
Construction in progress	38.9	55.7
Total property, plant and equipment	<u>938.2</u>	<u>867.0</u>
Accumulated depreciation and amortization	<u>(342.9)</u>	<u>(245.9)</u>
Property, plant and equipment (net)	<u>\$ 595.3</u>	<u>\$ 621.1</u>

Depreciation and amortization of property, plant and equipment included \$99.6 million, \$105.9 million and \$106.6 million for the years ended December 31, 2010, 2009 and 2008, respectively.

**NOTE 5. GOODWILL AND OTHER INTANGIBLE ASSETS**

The following presents a summary of goodwill and other intangible assets (dollars in millions):

	Expected useful life (years)	December 31, 2010	December 31, 2009
Goodwill	Indefinite	\$ 1,941.0	\$ 1,941.0
Other intangible assets:			
Trade name	Indefinite	\$ 870.0	\$ 870.0
Customer relationships — military	18.5	62.3	62.3
Customer relationships — commercial	16.5	831.8	831.8
Proprietary technology	12.5	476.3	476.3
Non-compete agreement	10.0	17.3	17.3
Patented technology — military	8.5	28.2	28.2
Tooling rights	6.0	4.5	4.2
Patented technology — commercial	5.5	<u>260.6</u>	<u>260.6</u>
Other intangible assets — gross		<u>2,551.0</u>	<u>2,550.7</u>
Less: accumulated amortization		<u>(532.9)</u>	<u>(378.7)</u>
Other intangible assets — net		<u>\$ 2,018.1</u>	<u>\$ 2,172.0</u>

As of December 31, 2010, the net value of our Goodwill and Other intangibles was \$3,959.1 million. The Company's 2010 annual review of indefinite life intangibles, including Goodwill and Trade name, resulted in fair values exceeding carrying amounts indicating no impairment.

The expected tax basis for Goodwill and Trade name deductions were \$1,523.0 million and \$2,256.0 million as of December 31, 2010 and \$1,651.4 million and \$2,450.5 million as of December 31, 2009, respectively.

**Allison Transmission Holdings, Inc.****Notes to Consolidated Financial Statements — (Continued)****NOTE 5. GOODWILL AND OTHER INTANGIBLE ASSETS (Continued)**

Amortization expense related to Other intangible assets for the next five years and thereafter is expected to be (dollars in millions):

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>Thereafter</u>
Amortization expense	<u>\$ 151.9</u>	<u>\$ 150.0</u>	<u>\$ 105.3</u>	<u>\$ 98.8</u>	<u>\$ 97.1</u>	<u>\$ 545.0</u>

**NOTE 6. FAIR VALUE OF FINANCIAL INSTRUMENTS**

In accordance with the FASB's authoritative accounting guidance on fair value measurements, fair value is the price (exit price) that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The Company utilizes market data or assumptions that market participants would use in pricing the asset or liability, including assumptions about risk and the risks inherent in the inputs to the valuation technique. These inputs can be readily observable, market corroborated, or generally unobservable. The Company primarily applies the market approach for recurring fair value measurements and utilizes the best available information that maximizes the use of observable inputs and minimizes the use of unobservable inputs. The Company is able to classify fair value balances based on the observability of those inputs. The accounting guidance establishes a fair value hierarchy that prioritizes the inputs used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurement) and the lowest priority to unobservable inputs (Level 3 measurement). The three levels of the fair value hierarchy defined by the relevant guidance are as follows:

Level 1 — Quoted prices are available in active markets for identical assets or liabilities as of the reporting date. Active markets are those in which transactions for the asset or liability occur in sufficient frequency and volume to provide pricing information on an ongoing basis. Level 1 primarily consists of financial instruments such as exchange-traded derivatives, listed equities and publicly traded bonds.

Level 2 — Pricing inputs are other than quoted prices in active markets included in Level 1, which are either directly or indirectly observable as of the reported date. Level 2 includes those financial instruments that are valued using models or other valuation methodologies. These models are primarily industry standard models that consider various assumptions, including quoted forward prices for commodities, time value, volatility factors, and current market and contractual prices for the underlying instruments, as well as other relevant economic measures. Substantially all of these assumptions are observable in the marketplace throughout the full term of the instrument, can be derived from observable data or are supported by observable levels at which transactions are executed in the marketplace.

Level 3 — Pricing inputs include significant inputs that are generally less observable from objective sources. These inputs may be used with internally developed methodologies that result in management's best estimate of fair value. At each balance sheet date, the Company performs an analysis of all instruments subject to authoritative accounting guidance and includes, in Level 3, all of those whose fair value is based on significant unobservable inputs. As of December 31, 2010, the Company did not have any Level 3 financial assets or liabilities.

The Company's assets and liabilities that are measured at fair value include cash equivalents, available-for-sale securities and derivatives. The Company's cash equivalents consist of short-term U.S. Government backed securities. The Company's available-for-sale securities consist of ordinary shares of Torotrak associated with a license and exclusivity agreement with Torotrak. Torotrak's listed shares are traded on the London Stock Exchange under the ticker symbol "TRK." The Company's derivative instruments consist of interest rate swaps, and foreign currency and commodity forward contracts.

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 6. FAIR VALUE OF FINANCIAL INSTRUMENTS (Continued)**

The Company's valuation techniques used to fair value cash equivalents and available-for-sale securities represents a market approach in active markets for identical assets that qualifies as Level 1 in the fair value hierarchy. The Company's valuation techniques used to calculate the fair value of derivatives represents a market approach with observable inputs that qualify as Level 2 in the fair value hierarchy.

The foreign currency contracts consist of forward rate contracts which are intended to hedge exposure of transactions denominated in certain currencies and reduce the impact of currency price volatility on the Company's financial results. The commodity contracts consist of forward rate contracts which are intended to hedge exposure of transactions involving purchases of component parts containing aluminum and reduce the impact of aluminum price volatility on the Company's financial results.

For its foreign currency derivatives, the Company uses independent valuations which use the current spot market data adjusted for the time value of money. The foreign currency hedges have been accounted for within the authoritative accounting guidance set forth on accounting for derivative instruments and hedging activities and have been recorded at fair value based upon quoted market rates. The fair values are included in other current or non-current assets and liabilities in the Consolidated Balance Sheets. For the foreign currency derivatives that qualify for hedge accounting, the Company recognizes the unrealized gains and losses arising from the revaluation of the contracts in AOCI, net of tax in the Consolidated Balance Sheets. For the foreign currency derivatives in which the Company has not elected hedge accounting, the unrealized gains and losses from the revaluation of the contracts are recorded in Other income, net in the Consolidated Statements of Operations. As of December 31, 2010, the Company elected not to apply hedge accounting to any of its foreign currency contracts.

For its commodity derivatives, the Company uses independent valuations which use current quoted market rates adjusted for the time value of money. The fair values are included in Other current and non-current assets in the Consolidated Balance Sheets. The Company has not elected hedge accounting treatment for these commodity contracts and, as a result, unrealized fair value adjustments and realized gains or losses will be charged directly to Other income, net in the Consolidated Statements of Operations.

For its interest rate derivatives, the Company uses independent valuations which approximate the current economic value of the swaps and collar using prices and rates at the average of the estimated bid and offer for the respective underlying assets. The floating-to-fixed interest rate swaps and collar are based on the London Interbank Offered Rate ("LIBOR") which is observable at commonly quoted intervals. The fair values are included in other current and non-current assets and liabilities in the Consolidated Balance Sheets. The Company has not elected hedge accounting treatment for the interest rate swaps and collar and, as a result, fair value adjustments are charged directly to Interest expense in the Consolidated Statements of Operations.

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

**NOTE 6. FAIR VALUE OF FINANCIAL INSTRUMENTS (Continued)**

The following table summarizes the fair value of our financial assets and (liabilities) as of December 31 (dollars in millions):

	Fair Value Measurements Using					
	Quoted Prices in Active Markets for Identical Assets (Level 1)		Significant Other Observable Inputs (Level 2)		TOTAL	
	2010	2009	2010	2009	2010	2009
Cash equivalents	\$ 117.9	\$ 47.9	\$ —	\$ —	\$ 117.9	\$ 47.9
Available-for-sale securities	4.9	6.3	—	—	4.9	6.3
Derivative assets	—	—	5.8	7.1	5.8	7.1
Derivative liabilities	—	—	(70.8)	(42.9)	(70.8)	(42.9)
Total	\$ 122.8	\$ 54.2	\$ (65.0)	\$ (35.8)	\$ 57.8	\$ 18.4

**NOTE 7. DEBT**

Long-term debt and maturities are as follows (dollars in millions):

	December 31, 2010	December 31, 2009
Long-term debt:		
Senior Secured Credit Facility, variable, due 2014	\$ 2,685.4	\$ 2,888.6
Senior Cash Pay Notes, fixed 11.00%, due 2015	478.0	478.0
Senior Toggle Notes, fixed 11.25%, PIK 12.00%, due 2015	505.3	505.3
Total long-term debt	3,668.7	3,871.9
Less: current maturities of long-term debt	31.0	31.0
Total long-term debt less current portion	\$ 3,637.7	\$ 3,840.9

Principal payments required on long-term debt during the next five years are \$31.0 million in 2011, \$31.0 million in 2012, \$31.0 million in 2013, \$2,592.4 million in 2014, and \$983.3 million in 2015.

As of December 31, 2010, the Company had \$2,685.4 million of indebtedness associated with the Senior Secured Credit Facility due August 2014. The Company also had indebtedness of \$478.0 million of 11.0% senior notes due November 2015 (the “Senior Cash Pay Notes”) and \$505.3 million of 11.25% senior toggle notes due November 2015 (the “Senior Toggle Notes”) and, together with the Senior Cash Pay Notes, the “Senior Notes”).

The fair value of the Company’s long-term debt obligations as of December 31, 2010 is \$3,680.3 million. The fair value is based on quoted market yields as of December 31, 2010. The difference between the fair value and carrying value of the Company’s long-term debt is driven primarily, but not entirely, by the recent upward trend of the financial markets.

**Senior Secured Credit Facility**

In 2007, the Company entered into a Senior Secured Credit Facility having a term loan in the amount of \$3,100 million with a maturity date of August 2014 with Citigroup Global Markets Inc., Lehman Brothers Inc., and Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated as joint lead arrangers and joint bookrunners, Lehman Brothers Commercial Bank and Merrill Lynch, Pierce, Fenner & Smith Incorporated as

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 7. DEBT (Continued)**

syndication agents, Sumitomo Mitsui Banking Corporation as documentation agent and co-arranger, and Citicorp North America, Inc., as administrative agent (the "Senior Secured Credit Facility"). The Senior Secured Credit Facility is collateralized by a lien on substantially all assets of the Company. Interest on the term loan is variable and currently is equal to the LIBOR plus an applicable margin based on the Company's total senior secured leverage ratio. As of December 31, 2010 this rate was approximately 3.03%. The Senior Secured Credit Facility requires minimum quarterly principal payments of \$7.75 million on the term loan, which commenced December 2007, as well as prepayments from certain net cash proceeds of non-ordinary course asset sales and casualty and condemnation events and from a percentage of excess cash flow, if applicable. The remaining principal balance of the term loan is due upon maturity. In accordance with the Senior Secured Credit Facility, net cash proceeds of non-ordinary course asset sales and casualty and condemnation events will only be required to prepay the term loan if the Company does not reinvest or commit to reinvest such net cash proceeds in assets to be used in its business or to make certain other permitted investments within 15 months of the related transactions or events, subject to certain limitations. The Company must apply 50% of its excess cash flow (as defined in the Senior Secured Credit Facility) to the prepayment of the term loan. This percentage reduces to certain levels and eventually to zero upon achievement of certain total senior secured leverage ratios. For the year ended December 31, 2010, the excess cash flow percentage was 25%. As a result of voluntary payments made during 2010, the Company does not expect any excess cash flow payment to be made for the year ended December 31, 2010. The Company paid approximately \$0.0 million and \$21.2 million as excess cash flow for the years ended December 31, 2009 and 2008.

The Senior Secured Credit Facility also provides for \$400.0 million in revolving credit borrowings, net of an allowance for up to \$50.0 million in outstanding letter of credit commitments. Revolving credit borrowings bear interest at a rate equal to LIBOR plus an applicable margin based on the Company's total senior secured leverage ratio. In addition, there is an annual commitment fee currently equal to 0.50% of the average unused revolving credit borrowings available under the Senior Secured Credit Facility which may fluctuate based on the Company's total senior secured leverage ratio. Revolving credit borrowings are payable at the option of the Company throughout the term of the Senior Secured Credit Facility, with the balance due in August 2013. As of December 31, 2010, the Company had no revolving credit facility borrowings and \$10.2 million in letters of credit issued and outstanding.

In September of 2008 Lehman Brothers Holdings, Inc. filed for bankruptcy, effectively reducing the Company's available revolving credit facility from \$400.0 million to \$317.5 million. On August 11, 2009, the Company and Lehman Commercial Paper Inc. ("LCPI") reached an agreement that eliminated LCPI's requirement to fund their \$82.5 million commitment to the revolving credit facility in exchange for eliminating LCPI's annual commitment fee paid by the Company. At this time, LCPI's commitment has not been assigned to or assumed by any party.

In November of 2008, the Company entered into an amendment to its Senior Secured Credit Facility that permits the Company to make discounted voluntary prepayments of its term loan in an aggregated amount not to exceed \$750 million pursuant to a modified Dutch auction. This provision is available to the Company for so long as the term loan is outstanding. For the years ended December 31, 2010, 2009 and 2008, the Company repurchased \$97.2 million, \$58.5 million and \$19.7 million of its term loan under this amendment, respectively. The repurchases of the term loan resulted in gains (the discount between the purchase price of the term loan and the face value of such term loan) for the years ended December 31, 2010, 2009 and 2008 of \$4.1 million, \$4.4 million and \$6.8 million, net of deferred financing fees written off, respectively.

In addition, the Company made principal payments of \$106.0 million, \$52.2 million and \$73.3 million on its Senior Secured Credit Facility for the years ended December 31, 2010, 2009 and 2008, respectively. The

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 7. DEBT (Continued)**

principal payments made on the Senior Secured Credit Facility for the years ended December 31, 2010, 2009 and 2008 resulted in losses of \$0.8 million, \$0.3 million and \$0.7 million associated with the write off of related deferred debt issuance costs, respectively.

The Senior Secured Credit Facility requires the Company to maintain a specified maximum total senior secured leverage ratio that becomes more restrictive over the term of the loan. In addition, the Senior Secured Credit Facility, among other things, includes customary restrictions (subject to certain exceptions) on the Company's ability to incur certain indebtedness, grant certain liens, make certain investments or declare or pay any dividends. As of December 31, 2010, the Company believes it is in compliance with all covenants under its Senior Secured Credit Facility.

**Senior Notes**

In October of 2007, the Company issued \$550.0 million of our 11.00% Senior Cash Pay Notes due November 2015 and \$550.0 million of our 11.25% Senior Toggle Notes due November 2015. Interest on the Senior Cash Pay Notes accrues at a rate of 11.00% per year and is payable semi-annually in arrears on May 1 and November 1 of each year. Interest on the Senior Toggle Notes accrues at a rate of 11.25% per year with respect to cash payments and 12.00% per year with respect to pay-in-kind ("PIK") interest payments, payable semi-annually in arrears on May 1 and November 1 of each year. For any interest period through November 1, 2011, the Company may elect to pay interest on the Senior Toggle Notes, entirely in cash, entirely with PIK interest payments, or 50% in cash and 50% with PIK interest payments. After November 1, 2011, the Company must make all interest payments in cash only. The Senior Notes are unsecured and guaranteed by the Company's domestic subsidiaries that guarantee the Senior Secured Credit Facility and will be unconditionally guaranteed, jointly and severally, by any future domestic subsidiaries that guarantee the Senior Secured Credit Facility.

Prior to November 1, 2011, the Company may redeem some or all of the Senior Notes by paying the applicable "make-whole" premium. At any time on or after November 1, 2011, the Company may redeem some or all of the Senior Notes at specified redemption prices in the indentures governing the Senior Cash Pay Notes and Senior Toggle Notes. As of December 31, 2010, the Company had not redeemed any of the Senior Notes.

The Company may from time to time seek to retire Senior Notes through cash purchases and/or exchanges for equity securities, in open market purchases, privately negotiated transactions or otherwise. Such repurchases or exchanges, if any, will depend on prevailing market conditions, our liquidity requirements, contractual restrictions and other factors. The amounts involved may be material. For the years ended December 31, 2010, 2009 and 2008 the Company repurchased \$0.0 million, \$26.3 million and \$119.0 million (at face value) of its Senior Notes, respectively. The repurchases resulted in a gain (the discount between the purchase price of the notes and the face value of such notes) for the years ended December 31, 2010, 2009 and 2008 of \$0.0 million, \$4.8 million and \$14.9 million, net of deferred financing fees written off.

On October 29, 2010, the Company continued to elect to pay cash interest on its Senior Toggle Notes for the interest period November 1, 2010 through April 30, 2011.

**Notes Payable**

As of December 31, 2010 and 2009, the Company had Japanese Yen denominated unsecured short-term notes of 200 million Yen (approximately \$2.4 million) and 200 million Yen (approximately \$2.2 million), respectively. The weighted average interest rates related to the debt as of December 31, 2010 and 2009 were 1.24% and 1.36%, respectively. As of December 31, 2010, all of the outstanding Japanese Yen denominated short-term notes are payable within the next three months.

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

NOTE 8. DERIVATIVES

The Company is exposed to certain financial risk from volatility in interest rates, foreign exchange rates and commodity prices. The risk is managed through the use of financial derivative instruments including interest rate swaps, and foreign currency and commodity forward contracts. Despite the fact that the Company has not elected hedge accounting treatment on all of its current derivative instruments, the contracts are used strictly as an economic hedge and not for speculative purposes. As necessary, the Company adjusts the values of the derivative instruments for counter-party or credit risk.

*Interest Rate*

As a result of the variable interest rate risk on the Senior Secured Credit Facility, the Company currently has nine floating-to-fixed interest rate swap contracts that qualify as derivatives under the FASB's authoritative accounting guidance. The Company has not elected hedge accounting treatment for these derivatives and, as a result, fair value adjustments are charged directly to Interest expense in the Consolidated Statements of Operations.

The maturities of the swaps and collar outstanding as of December 31, 2010 and 2009 do not correspond with the maturity of the term loan, but are similar in all other respects. A summary of the Company's derivatives as of December 31, 2010 and 2009 follows (dollars in millions):

	December 31, 2010		December 31, 2009	
	Notional Amount	Fair Value	Notional Amount	Fair Value
Interest Rate Swap A, due 2010	\$ —	\$ —	\$ 537.0	\$ (17.4)
Interest Rate Swap B, due 2011	250.0	(2.8)	250.0	(8.4)
Interest Rate Swap D, due 2013	125.0	(10.8)	125.0	(9.0)
Interest Rate Swap E, due 2013	150.0	(7.3)	150.0	(0.1)
Interest Rate Swap F, due 2013	75.0	(3.4)	75.0	0.2
Interest Rate Swap G, due 2013	75.0	(4.1)	75.0	(0.5)
Interest Rate Swap H, due 2014	350.0	(20.8)	350.0	0.5
Interest Rate Swap I, due 2014	350.0	(21.1)	350.0	0.2
Interest Rate Swap J, due 2014	125.0	(0.2)	—	—
Interest Rate Swap K, due 2014	125.0	(0.3)	—	—
Collar B, due 2010	—	—	268.5	(7.5)
	<u>\$1,625.0</u>	<u>\$ (70.8)</u>	<u>\$2,180.5</u>	<u>\$ (42.0)</u>

In the third quarter of 2010, the Company entered into two interest rate swaps. The first swap, Interest Rate Swap J, is a \$125.0 million interest rate swap, effective August 1, 2013 through August 1, 2014, at an all-in-rate of 2.96% and an independent collateral requirement of \$1.0 million. The second swap, Interest Rate Swap K, is a \$125.0 million interest rate swap, effective August 1, 2013 through August 1, 2014, at an all-in-rate of 3.05% and an independent collateral requirement of \$1.0 million.

As of December 31, 2010, certain of the Company's interest rate derivatives contain credit-risk and collateral contingent features. Certain interest rate derivatives contain provisions under which downgrades in the Company's credit rating could require the Company to increase its collateral. Certain interest rate derivatives also contain provisions under which the Company may be required to post additional collateral if the LIBOR reaches certain levels. As of December 31, 2010 and 2009, the Company recorded additional collateral of \$41.9 million and \$2.0 million in Other current assets in the Consolidated Balance Sheets, respectively.

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

NOTE 8. DERIVATIVES (Continued)

*Currency Exchange*

The Company's business is subject to foreign exchange rate risk. As a result, the Company enters into various forward rate contracts that qualify as derivatives under the authoritative accounting guidance to manage certain of these exposures. Forward contracts are used to hedge forecasted transactions and known exposure of payables denominated in a foreign currency. The Company generally does not elect to apply hedge accounting under the authoritative accounting guidance and records the gains and losses associated with these contracts in Other income, net in the Consolidated Statements of Operations during the period of change.

The following table summarizes the outstanding foreign currency forward contracts as of December 31, 2010 and 2009 (amounts in millions):

	December 31, 2010		December 31, 2009	
	Notional Amount	Fair Value	Notional Amount	Fair Value
Euro (EUR)	€ 11.2	\$ 0.1	N/A	\$ —
Japanese Yen (JPY)	¥ 110.0	0.1	N/A	—
British Pound Sterling (GBP)	N/A	—	£ 3.8	0.4
		<u>\$ 0.2</u>		<u>\$ 0.4</u>

*Commodity*

As a result of the Company's commodity price risk with component suppliers, it has chosen to manage steel and aluminum exposure by entering into forward rate contracts that qualify as derivatives under authoritative accounting guidance. The Company has not elected hedge accounting treatment for these commodity contracts and, as a result, unrealized fair value adjustments and realized gains or losses will be charged directly to Other income, net in the Consolidated Statements of Operations.

The following table summarizes the outstanding commodity forward contracts as of December 31, 2010 and 2009 (dollars in millions):

	December 31, 2010			December 31, 2009		
	Notional Amount	Quantity	Fair Value	Notional Amount	Quantity	Fair Value
Steel	\$ 1.6	2,480 short tons	\$ 0.1	N/A	N/A	\$ —
Aluminum	\$ 18.7	9,800 metric tons	5.5	\$ 21.0	11,575 metric tons	5.8
			<u>\$ 5.6</u>			<u>\$ 5.8</u>

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

NOTE 8. DERIVATIVES (Continued)

The following tabular disclosures further describe the Company's derivative instruments and their impact on the financial condition of the Company.

(dollars in millions)	December 31, 2010		December 31, 2009	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives not designated as hedging instruments				
Foreign currency contracts	Other current assets	\$ 0.2	Other current assets	\$ 0.4
Commodity contracts	Other current and non-current assets	5.6	Other current and non-current assets	5.8
Interest rate contracts	Other current and non-current liabilities	(70.8)	Other current and non-current assets and liabilities	(42.0)
Total derivatives not designated as hedging instruments		<u>\$ (65.0)</u>		<u>\$ (35.8)</u>

The fair values of the derivatives are recorded between current and non-current assets and current and non-current liabilities as appropriate in the Consolidated Balance Sheets. As of December 31, 2010, the amount recorded to Other current assets for foreign currency contracts was \$0.2 million. The amounts recorded to other current and non-current assets for commodity contracts were \$4.5 million and \$1.1 million, respectively. The amounts recorded to current and non-current liabilities for interest rate contracts were (\$18.4) million and (\$52.4) million, respectively.

As of December 31, 2009, the amount recorded to Other current assets for foreign currency contracts was \$0.4 million. The amounts recorded to current and non-current assets for the commodity contracts were \$1.5 million and \$4.3 million, respectively. The amounts recorded to non-current assets, current and non-current liabilities for the interest rate contracts as of December 31, 2009, were \$0.9 million, (\$28.8) million and (\$14.1) million, respectively.

The following tabular disclosures further describe the Company's derivative instruments and their impact on the results of operations of the Company.

(dollars in millions)	Year ended December 31, 2010		Year ended December 31, 2009		Year ended December 31, 2008	
	Location of gain (loss) recognized on derivatives	Amount of gain (loss) recognized on derivatives	Location of gain (loss) recognized on derivatives	Amount of gain (loss) recognized on derivatives	Location of gain (loss) recognized on derivatives	Amount of gain (loss) recognized on derivatives
Derivatives not designated as hedging instruments						
Foreign currency contracts	Other income, net	\$ 0.4	Other income, net	\$ 0.3	N/A	\$ —
Commodity contracts	Other income, net	1.4	Other income, net	5.8	N/A	—
Interest rate contracts	Interest expense	(28.8)	Interest expense	29.4	Interest expense	(59.7)
Total derivatives not designated as hedging instruments		<u>\$ (27.0)</u>		<u>\$ 35.5</u>		<u>\$ (59.7)</u>

## Allison Transmission Holdings, Inc.

## Notes to Consolidated Financial Statements — (Continued)

## NOTE 9. PRODUCT WARRANTY LIABILITIES

Product warranty liability activities consist of the following (dollars in millions):

	Year ended December 31, 2010	Year ended December 31, 2009
Beginning balance	\$ 175.7	\$ 159.3
Payments	(36.5)	(42.7)
Increase in liability (warranties issued during period)	21.0	60.1
Net adjustments to liability	(35.5)	(6.5)
Accretion (for Predecessor liabilities)	3.8	5.5
Ending balance	<u>\$ 128.5</u>	<u>\$ 175.7</u>

During June 2007, Old GM recognized the estimated cost of replacing the Dual Power Inverter Module (“DPIM”) used on H 40/50 EP hybrid systems. Certain units were falling short of their expected service life and the Predecessor decided to cover repair or replacement for an extended period. The Company is responsible for the first \$12.0 million of qualified cost while GM is responsible for the next \$34.0 million of costs, with any amount over \$46.0 million being shared one-third by the Company and two-thirds by GM for shipments through June 30, 2009.

During 2009, the Company’s DPIM liability increased by approximately \$32.3 million for newly issued extended coverage associated with DPIM shipments through June 30, 2009.

During 2010, the Company reviewed its DPIM costs associated with the extended coverage resulting in a (\$22.7) million reduction of the total liability. The associated GM receivable was reduced by \$20.8 million as a result of the review. The reduction in the DPIM liability was the result of additional claims data and field information becoming available. The Company will continue to review the total DPIM liability and GM receivable for any changes in estimate as data becomes available.

As of December 31, 2010, the DPIM liability was \$60.7 million with the associated receivable from GM of \$38.9 million. To date, the Company has paid approximately \$7.0 million in DPIM claims.

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

**NOTE 9. PRODUCT WARRANTY LIABILITIES (Continued)**

The remainder of the reduction in product warranty liabilities for the year ended December 31, 2010, was the result of general changes in estimates for various products as additional claims data and field information became available.

Deferred revenue for ETC activity (dollars in millions):

	Year ended December 31, 2010	Year ended December 31, 2009
Beginning balance	\$ 40.3	\$ 26.4
Increases	24.2	17.4
Revenue earned	(8.3)	(3.5)
Ending balance	<u>\$ 56.2</u>	<u>\$ 40.3</u>

As of December 31, 2010, the current and non-current liabilities were \$14.8 million and \$41.4 million, respectively. As of December 31, 2009, the current and non-current liabilities were \$12.4 million and \$32.3 million, respectively. The activity above excludes deferred revenue related to military contracts of \$0.0 million and \$4.4 million as of December 31, 2010 and 2009, respectively.

**NOTE 10. OTHER INCOME, NET**

Other income, net consists of the following (dollars in millions):

	Year ended December 31,		
	2010	2009	2008
Grant Program income	\$12.0	\$ 1.8	\$ —
Reduction of supply contract liability	3.4	—	—
Gain on repurchases of long-term debt	3.3	8.9	21.0
(Loss) gain on foreign exchange	(2.3)	(0.1)	4.2
Realized gain on derivative contracts	1.9	0.3	—
Unrealized (loss) gain on derivative contracts	(0.1)	5.8	—
Net change in Old GM OPEB Receivable / Payable	—	(17.3)	14.6
Settlement gains related to the Cure Agreement	—	2.7	—
Other	0.8	0.7	0.2
Total	<u>\$19.0</u>	<u>\$ 2.8</u>	<u>\$40.0</u>

In 2009, the Company was notified by the U.S. Department of Energy that it was selected to receive matching funds from a grant program funded by the American Recovery and Reinvestment Act for the development of Hybrid manufacturing capacity in the U.S. (the "Grant Program"). All applicable costs associated with the Grant Program have been charged to Engineering — research and development while the Government's matching reimbursement is recorded to Other income, net in the Consolidated Statements of Operations.

For the years ended December 31, 2010 and 2009, the Company recorded \$12.0 million and \$1.8 million of reimbursement of allowable expense to Other income, net under the Grant Program in the Consolidated Statements of Operations, respectively. Since inception of the Grant Program, the Company has recorded \$13.8 million of reimbursable expenses to Other income, net in the Consolidated Statements of Operations.

**Allison Transmission Holdings, Inc.****Notes to Consolidated Financial Statements — (Continued)****NOTE 10. OTHER INCOME, NET (Continued)**

In 2010, the Company recorded \$3.4 million as a reduction to a GM supply contract liability as a result of a new agreement with GM-PTH. The Company and GM-PTH entered into an agreement to terminate a current contract manufacturing agreement related to production of the Company's medium and heavy duty transmissions. The current agreement is effectively terminated and replaced with a new agreement that will expire in the second quarter of 2016. The terms of the original agreement held the Company responsible for all severance payments regardless of which party terminated the agreement. The terms of the new agreement only require the Company to make severance payments if the Company terminates the new agreement.

**NOTE 11. OTHER CURRENT LIABILITIES**

The Other current liabilities consist of the following (dollars in millions):

	As of December 31, 2010	As of December 31, 2009
Payroll and related costs	\$ 56.3	\$ 32.5
Sales allowances	36.7	42.1
Accrued interest payable	29.5	31.6
Vendor buyback obligation	19.4	11.3
Accrued derivative payable	18.4	28.8
Military price reduction reserve	13.5	5.5
Taxes payable	10.4	9.1
Research and development payable	—	6.1
Other accruals	11.1	11.5
Total	<u>\$ 195.3</u>	<u>\$ 178.5</u>

**NOTE 12. EMPLOYEE BENEFIT PLANS**

The Company's hourly defined benefit pension plan generally provides benefits of negotiated, stated amounts for each year of service as well as significant supplemental benefits for employees who retire with 30 years of service before normal retirement age. On May 1, 2008, the Company and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America ("UAW") Local 933 reached an agreement on a labor contract covering approximately 2,200 hourly employees that replaced the hourly defined benefit pension plan with a defined contribution pension plan effective for all new hires from May 19, 2008 through November 14, 2012. The agreement also eliminated retiree healthcare for those hired after May 18, 2008. The charge to expense for the hourly defined contribution pension plan was \$0.5 million, \$0.2 million and \$0.2 million for the years ended December 31, 2010, 2009 and 2008, respectively.

In accordance with the Asset Purchase Agreement, the Company's hourly employees who retire prior to October 2, 2011 (the "Cutoff Date") will have their pension and OPEB paid by GM. The Company is required, pursuant to the Asset Purchase Agreement, to transfer pension assets to GM's pension plan to cover the Company's portion of its pension liability related to the employees who retire prior to the Cutoff Date. Currently, the amount of this payment is being negotiated between the Company and GM. Employees that retire subsequent to the Cutoff Date will have their Allison pension and OPEB paid by the Company and their GM pension benefit paid by GM.

The Company's salaried defined benefit plan covering salaried employees with a service date prior to January 1, 2001 is generally based on years of service and compensation history. The salaried defined contribution retirement savings plan requires the Company to match employee contributions up to certain

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 12. EMPLOYEE BENEFIT PLANS (Continued)**

predefined limits based upon eligible base salary. In addition to the matching contribution, the Company is required to make a contribution equal to 1% of eligible base salary for salaried employees with a service date on or after January 1, 1993 to cover certain benefits in retirement that are different from salaried employees with a service date prior to January 1, 1993. In addition, for salaried employees with a service date on or after January 1, 2001, the Company is required to contribute to its defined contribution retirement savings plan an amount equal to 4% of eligible base salary under the program. The charge to expense for the salaried defined contribution retirement savings plan was \$4.4 million, \$3.3 million and \$4.3 million for the years ended December 31, 2010, 2009 and 2008, respectively.

The Company is also responsible for OPEB costs (medical, dental, vision, and life insurance) for hourly employees hired prior to May 19, 2008. Post-retirement benefit costs consist of service cost, interest cost on accrued obligations and the expected return on assets (calculated using a smoothed market value of assets). Any difference between actual and expected returns on assets during a year and actuarial gains and losses on liabilities together with any prior service costs are charged (or credited) to income over the average remaining service lives of employees. The benefit cost components shown in the Consolidated Statements of Operations are based upon certain data specific to the Company, actuarial assumptions that were used for OPEB accounting disclosures, and certain allocation methodologies such as population demographics. The plan is unfunded and any future payments will be funded by the Company's operating cash flows. As of December 31, 2010 and 2009, the Company has an estimated OPEB liability for hourly employees hired prior to May 19, 2008 of \$127.0 million and \$96.5 million.

GM retained all responsibility for OPEB costs for salaried employees who were eligible to retire at the time of the Acquisition Transaction. As a result, the Company has not recorded any liabilities for these salaried employees' post-retirement benefits going forward.

In addition, in accordance with the Asset Purchase Agreement, GM is responsible for OPEB liabilities for hourly employees who retire prior to the expiration of the current collective bargaining agreement between the UAW and GM that expires in September 2011. Employees who retire after the expiration of the current agreement and were not eligible for retirement as of the date of the Acquisition Transaction, will be covered by the Company's OPEB plan. At this time, it is unknown how many employees will retire prior to expiration of the agreement between the UAW and GM. Currently, there are approximately three hundred hourly employees who would be eligible to retire prior to the expiration of the agreement between the UAW and GM. For valuation purposes, the Company has assumed that none of those employees will retire prior to expiration of the agreement between the UAW and GM.

As part of the Health Care Reform Act issued in 2010, the Company has evaluated the impact on "High-cost Health Plans" in which employers offering health plan coverage exceeding certain thresholds must pay an excise tax equal to 40% of the value of the plan that exceeds the threshold amount. Although the excise tax does not come into effect until 2018, the Company has recorded \$2.9 million in its OPEB liability as of December 31, 2010 with a corresponding adjustment to AOCI, net of tax.

The Company provides contributions to certain international benefit plans; however, these contributions are not material for all periods presented.

For all pension and OPEB plans in which employees participate, costs are determined within the FASB's authoritative accounting guidance set forth on employers' defined benefit pensions including accounting for settlements and curtailments of defined benefit pension plans, termination of benefits and accounting for post-retirement benefits other than pensions. In accordance with the authoritative accounting guidance, the Company recognizes the funded status of its defined benefit pension plans and OPEB plan in its Consolidated Balance Sheets with a corresponding adjustment to AOCI, net of tax.

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

NOTE 12. EMPLOYEE BENEFIT PLANS (Continued)

Information about the net periodic benefit cost for the pension and post-retirement benefit plans is as follows (dollars in millions):

	Pension Plans			Post-retirement Benefits		
	Year ended December 31, 2010	Year ended December 31, 2009	Year ended December 31, 2008	Year ended December 31, 2010	Year ended December 31, 2009	Year ended December 31, 2008
Net Periodic Benefit Cost:						
Service cost	\$ 13.9	\$ 14.7	\$ 17.7	\$ 2.8	\$ 4.7	\$ 4.4
Interest cost	2.9	1.9	0.4	5.9	8.9	8.2
Expected return on assets	(3.4)	(2.3)	(1.0)	—	—	—
Prior service cost	0.1	0.1	0.1	—	—	—
Loss (gain)	0.4	0.1	—	(2.4)	0.5	(0.0)
Net Periodic Benefit Cost	\$ 13.9	\$ 14.5	\$ 17.2	\$ 6.3	\$ 14.1	\$ 12.6

The table below provides the weighted-average actuarial assumptions used to determine the net periodic benefit cost.

	Pension Plans			Post-retirement Benefits		
	Year ended December 31, 2010	Year ended December 31, 2009	Year ended December 31, 2008	Year ended December 31, 2010	Year ended December 31, 2009	Year ended December 31, 2008
Discount rate	6.10%	6.00%	6.70%	6.10%	6.00%/7.25% <sup>1</sup>	6.70%
Rate of compensation increase (salaried)	4.00%	4.00%	4.00%	N/A	N/A	4.00%
Expected return on assets	7.00%	7.00%	7.00%	N/A	N/A	N/A

<sup>1</sup> As a result of the first quarter 2009 re-measurement, 6.00% was used from January 1, 2009 to March 31, 2009 and 7.25% was used from April 1, 2009 to December 31, 2009.

The table below provides the weighted-average actuarial assumptions used to determine the benefit obligations of our plans.

	Pension Plans		Post-retirement Benefits	
	2010	2009	As of December 31, 2010	2009
Discount rate	5.60%	6.10%	5.60%	6.10%
Rate of compensation increase (salaried)	4.00%	4.00%	N/A	N/A

The Company's pension and OPEB costs are calculated using various actuarial assumptions and methodologies as prescribed by authoritative accounting guidance. These assumptions include discount rates, expected return on plan assets, health care cost trend rates, inflation, rate of compensation increases, mortality rates, and other factors. The Company reviews all actuarial assumptions on an annual basis.

The discount rate is used to determine the present value of the Company's future benefit obligations. The Company's discount rate is determined by matching the plans projected cash flows to a yield curve based on long-term, fixed income debt instruments available as of the measurement date of December 31, 2010.

The overall expected rate of return on plan assets is based upon historical and expected future returns consistent with the expected benefit duration of the plan for each asset group adjusted for investment and administrative fees.

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

NOTE 12. EMPLOYEE BENEFIT PLANS (Continued)

Health care cost trends are used to project future post-retirement benefits payable from the Company's plans. For the Company's December 31, 2010 obligations, future post-retirement medical care costs were forecasted assuming an initial annual increase of 7.73%, decreasing to 4.50% by the year 2028. Future post-retirement prescription drug costs were forecasted assuming an initial annual increase of 8.79%, decreasing to 4.50% by the year 2028.

As health care costs trends have a significant effect on the amounts reported, the following effects of an increase and decrease of one-percentage-point would have the following effects in the year ended December 31, 2010 (dollars in millions):

	1% Increase	1% Decrease
Effect on total of service and interest cost	\$ 1.7	\$ (1.3)
Effect on post-retirement benefit obligation	\$ 26.1	\$ (20.4)

The following table provides a reconciliation of the changes in the net benefit obligations and fair value of plan assets for the years ended December 31, 2010, 2009 and 2008 (dollars in millions):

	Pension Plans			Post-retirement Benefits		
	Year ended December 31, 2010	Year ended December 31, 2009	Year ended December 31, 2008	Year ended December 31, 2010	Year ended December 31, 2009	Year ended December 31, 2008
<b>Benefit Obligations:</b>						
Net benefit obligation at beginning of year	\$ 48.5	\$ 27.0	\$ 6.2	\$ 96.5	\$ 170.5	\$ 123.3
Service cost	13.9	14.7	17.7	2.8	4.7	4.4
Interest cost	2.9	1.9	0.4	5.9	8.9	8.2
Plan Amendments	—	—	0.6	—	(23.7)	(1.0)
Curtailments	—	3.4	0.1	—	—	(0.2)
Benefits paid	(0.2)	(0.2)	(0.0)	—	—	—
Actuarial loss (gain)	6.3	1.7	2.0	21.8	(63.9)	35.8
Net benefit obligation at end of year	<u>\$ 71.4</u>	<u>\$ 48.5</u>	<u>\$ 27.0</u>	<u>\$ 127.0</u>	<u>\$ 96.5</u>	<u>\$ 170.5</u>
<b>Fair Value of Plan Assets:</b>						
Fair value of plan assets at beginning of year	\$ 39.5	\$ 24.8	\$ 7.2	\$ —	\$ —	\$ —
Actual return on plan assets	1.9	(0.1)	0.0	—	—	—
Employer contributions	13.7	15.0	17.6	—	—	—
Benefits paid	(0.2)	(0.2)	(0.0)	—	—	—
Fair value of plan assets at end of year	<u>\$ 54.9</u>	<u>\$ 39.5</u>	<u>\$ 24.8</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>
Net Funded Status	<u>\$ (16.5)</u>	<u>\$ (9.0)</u>	<u>\$ (2.2)</u>	<u>\$ (127.0)</u>	<u>\$ (96.5)</u>	<u>\$ (170.5)</u>

The Company's pension plan assets consist of money market funds, mutual funds, listed equities and publicly traded bonds. The Company's valuation techniques used to fair value pension plan assets represents a market approach in active markets for identical assets that qualifies as Level 1 in the fair value hierarchy.

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

NOTE 12. EMPLOYEE BENEFIT PLANS (Continued)

The fair values of plan assets for the Company's pension plans as of December 31, 2010 and 2009 are as follows (dollars in millions):

Asset Category	Quoted Prices in Active Markets for Identical Assets (Level 1)			
	2010		2009	
	Fair Value	%	Fair Value	%
Cash and cash equivalents	\$ 8.1	15%	\$ 39.5	100%
Diversified equity securities	11.4	21%	—	—
Diversified debt securities	35.4	64%	—	—
Total	\$ 54.9	100%	\$ 39.5	100%

The Company's investment strategy with respect to pension plan assets is to invest the assets in accordance with laws and regulations. The long-term primary objectives for our pension assets are to provide results that meet or exceed the plans' actuarially assumed long-term rate of return without subjecting the funds to undue risk. To achieve these objectives the Company has established the following targets:

Asset Category	Target
Cash and cash equivalents	3%
Diversified equity securities	51%
Diversified debt securities	46%
Total	100%

The following table discloses the amounts recognized in the balance sheet and in AOCI at December 31, 2010 and 2009, on a pre-tax basis (dollars in millions):

	Pension Plans		Post-retirement Benefits	
	As of December 31,			
	2010	2009	2010	2009
Amounts Recognized in Balance Sheet:				
Current liabilities	\$ —	\$ —	\$ (0.6)	\$ (0.3)
Noncurrent liabilities	(16.5)	(9.0)	(126.4)	(96.2)
Total liability	\$ (16.5)	\$ (9.0)	\$ (127.0)	\$ (96.5)
Accumulated Other Comprehensive Income:				
Unrecognized prior service cost	\$ (0.6)	\$ (0.7)	\$ —	\$ —
Unrecognized actuarial (loss) gain	(15.3)	(7.9)	9.1	33.3
Total	\$ (15.9)	\$ (8.6)	\$ 9.1	\$ 33.3

The amounts in AOCI expected to be amortized and recognized as a component of net periodic benefit cost in 2011 are as follows (dollars in millions):

	2011	
	Pension Plans	Post-retirement Benefits
Prior service cost	\$ (0.1)	\$ —
Actuarial loss	(1.0)	—
Total	\$ (1.1)	\$ —

**Allison Transmission Holdings, Inc.**

**Notes to Consolidated Financial Statements — (Continued)**

**NOTE 12. EMPLOYEE BENEFIT PLANS (Continued)**

The accumulated benefit obligation for the Company's pension plans as of December 31, 2010 and 2009 was \$69.3 million and \$46.4 million, respectively.

As of December 31, 2010 and 2009, the projected benefit obligation, the accumulated benefit obligation, and the fair value of plan assets for pension plans with a projected benefit obligation in excess of plan assets and for pension plans with an accumulated benefit obligation in excess of plan assets were as follows (dollars in millions):

	Projected Benefit Obligation Exceeds the Fair Value of Plan Assets		Accumulated Benefit Obligation Exceeds the Fair Value of Plan Assets	
	As of December 31,			
	2010	2009	2010	2009
<b>Pension Benefits:</b>				
Projected benefit obligation	\$ 71.4	\$ 48.5	\$ 71.4	\$ 48.5
Accumulated benefit obligation	—	—	69.3	46.4
Fair value of plan assets	54.9	39.5	54.9	39.5

Information about expected cash flows for the Company's pension and post-retirement benefit plans is as follows (dollars in millions):

	Pension Plans	Post- retirement Benefits
<b>Employer Contributions:</b>		
2011 expected contributions	\$ 11.2	\$ 0.6
<b>Expected Benefit Payments:</b>		
2011	\$ 2.1	\$ 0.6
2012	2.7	1.2
2013	3.3	2.0
2014	4.0	2.8
2015	4.7	3.8
2016-2020	33.2	33.5

Expected benefit payments for pension and post-retirement benefits will be paid from plan trusts or corporate assets. Our funding policy is to contribute amounts annually that are at least equal to the amounts required by applicable laws and regulations or to directly fund payments to plan participants. Additional discretionary contributions will be made when deemed appropriate to meet the Company's long-term obligation to the plans.

As discussed above, that Company is required, in accordance with the Asset Purchase Agreement, to transfer pension assets to GM's pension plan to cover the Company's portion of its pension liability related to the employees who retire prior to the Cutoff Date. As the amount of this payment is currently being negotiated between the Company and GM, it has not been included in the expected cash flows table above. The expected cash flows table does, however, assume that the Company would pay pension benefits directly to all of its retired employees, which we believe represents the amount of assets required to meet our pension obligations for all of our hourly employees.

**Allison Transmission Holdings, Inc.****Notes to Consolidated Financial Statements — (Continued)****NOTE 13. STOCK-BASED COMPENSATION**

The Company has an equity plan under which certain employees (including executive officers), consultants and directors are eligible to receive awards of options to purchase shares of common stock. The aggregate number of shares issuable pursuant to the grants under the plan is approximately 8.8% of the fully diluted equity of the Company, or 14.8 million authorized shares, based on the Company's equity capitalization immediately after the consummation of the Acquisition Transaction.

The employee options will vest upon the continued performance of services by the option holder over time, with 20% of the award vesting on each anniversary of the grant date over five years. The consultant and director options will vest in full within one year from grant date. Options granted after the completion of the Acquisition Transaction have a per share exercise price based on the fair market value of the Company at the date of grant and expire 10 years after the grant dates. Upon termination of employment for reasons other than cause, death or disability, the options shall cease to be exercisable ninety days following the date of the optionees' termination of service. Upon termination of employment for cause, the options shall not be exercisable on the date of such termination. Upon termination of employment for death or disability, the options shall cease to be exercisable twelve months following such date.

In accordance with the FASB's authoritative accounting guidance on stock compensation, each option grant is to be recorded at fair value. The Company uses a Black-Scholes option pricing model to calculate the fair value of each option award using the assumptions noted in the following table.

	2010	2009
Expected volatility	<b>101%</b>	72%
Expected dividend yield	<b>0.0%</b>	0.0%
Expected term (in years)	<b>3.6</b>	6.0
Expected forfeitures	<b>0%</b>	0%
Risk-free rate	<b>0.6% – 1.7</b>	1.6% – 3.2

Expected volatility is based on "the average volatilities of otherwise similar public entities" as defined by authoritative accounting guidance. The Company does not currently pay and does not anticipate paying a dividend. The expected term is derived from the average of the weighted vesting life and the contractual term. The risk-free rate for periods within the contractual life of the option is based on the U.S. Treasury yield curve in effect at the time of grant. The Company has assumed no forfeitures primarily because of a history of retaining senior executives.

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

**NOTE 13. STOCK-BASED COMPENSATION (Continued)**

A summary of option activity under the equity plan as of December 31, 2010 and 2009, and changes during the period then ended is presented below:

	Options (in 000's)	Weighted- Average Exercise Price	Weighted- Average Remaining Contractual Term
Outstanding at December 31, 2008	11,562	\$ 15.87	8.77 years
Exercisable at December 31, 2008	2,361	\$ 15.71	8.79 years
Granted	1,031	\$ 16.02	
Exercised	—	—	
Forfeited or expired	(205)	\$ 16.22	
Outstanding at December 31, 2009	12,388	\$ 15.88	7.90 years
Exercisable at December 31, 2009	4,671	\$ 15.77	7.80 years
Granted	169	\$ 16.22	
Exercised	—	—	
Forfeited or expired	(57)	\$ 12.78	
Outstanding at December 31, 2010	12,500	\$ 15.90	6.94 years
Exercisable at December 31, 2010	7,128	\$ 15.86	6.84 years

The weighted-average grant-date fair value of options granted during the years ended December 31, 2010 and 2009 was \$5.59 and \$4.77, respectively. The total fair value of shares vested during the years ended December 31, 2010 and 2009 was \$7.6 million and \$7.1 million, respectively.

A summary of the status of the Company's non-vested shares as of December 31, 2010 and 2009, and changes during the period ended December 31, 2010 and 2009 is presented below:

	Options (in 000's)	Weighted- Average Grant- Date Fair Value
<b>Non-vested Shares:</b>		
Non-vested at December 31, 2008	9,201	\$ 2.93
Granted	1,031	4.77
Vested	(2,310)	3.07
Forfeited	(205)	4.07
Non-vested at December 31, 2009	7,717	\$ 3.07
Granted	169	5.59
Vested	(2,457)	3.10
Forfeited	(57)	3.92
Non-vested at December 31, 2010	5,372	\$ 3.10

As of December 31, 2010 and 2009, there was \$16.7 million and \$23.7 million, respectively, of unrecognized compensation cost related to non-vested share-based compensation arrangements granted under the equity plan. This cost is expected to be recognized, on a straight line basis, over a period of approximately 2 years. Stock-based incentive compensation expense recorded was \$8.5 million, \$7.3 million and \$7.1 million for the years ended December 31, 2010, 2009 and 2008, respectively.

## Allison Transmission Holdings, Inc.

## Notes to Consolidated Financial Statements — (Continued)

## NOTE 14. INCOME TAXES

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the expected future tax consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. The future tax benefits associated with operating loss and tax credit carryforwards are recognized as deferred tax assets. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled.

The need to establish a valuation allowance against the deferred tax assets is assessed periodically based on a more-likely-than-not realization threshold, in accordance with authoritative accounting guidance. Appropriate consideration is given to all positive and negative evidence related to that realization. This assessment considers, among other matters, the nature, frequency and severity of recent losses, forecasts of future profitability, the duration of statutory carry forward periods, experience with tax attributes expiring unused, and tax planning alternatives. The weight given to these considerations depends upon the degree to which they can be objectively verified.

Income (loss) before income taxes included the following (dollars in millions):

	Year ended December 31,		
	2010	2009	2008
U.S. income (loss)	\$75.3	\$(296.0)	\$(302.7)
Foreign income	8.0	13.5	11.7
Total	<u>\$83.3</u>	<u>\$(282.5)</u>	<u>\$(291.0)</u>

The provision for income tax expense was estimated as follows (dollars in millions):

	Year ended December 31,		
	2010	2009	2008
Estimated current income taxes:			
U.S. federal	\$ —	\$ —	\$ —
Foreign	1.6	2.5	4.5
U.S. state and local	0.6	1.6	2.1
Total Current	<u>\$ 2.2</u>	<u>\$ 4.1</u>	<u>\$ 6.6</u>
Deferred income tax expense (credit), net:			
U.S. federal	\$45.7	\$33.5	\$28.7
Foreign	1.1	0.7	(1.0)
U.S. state and local	4.7	3.1	2.8
Total Deferred	<u>\$51.5</u>	<u>\$37.3</u>	<u>\$30.5</u>
Total income tax expense	<u>\$53.7</u>	<u>\$41.4</u>	<u>\$37.1</u>

Cash paid for income taxes for the years ended December 31, 2010, 2009 and 2008 was \$2.2 million, \$5.5 million and \$4.3 million, respectively.

## Allison Transmission Holdings, Inc.

## Notes to Consolidated Financial Statements — (Continued)

## NOTE 14. INCOME TAXES (Continued)

A reconciliation of the provision for income taxes compared with the amounts at the U.S. federal statutory rate is as follows (dollars in millions):

	Year ended December 31,		
	2010	2009	2008
Tax at U.S. statutory income tax rate	\$29.2	\$ (98.9)	\$(101.9)
Foreign rate differential	(0.5)	(1.6)	(1.0)
Non-deductible expenses	4.5	5.0	(0.1)
Valuation allowance	24.1	140.9	148.3
State tax expense	3.5	(5.4)	(9.4)
Adjustment to deferred	(4.2)	—	—
Branch income taxes-not creditable	0.1	0.0	(0.5)
Other adjustments	(3.0)	1.4	1.7
Total income tax expense	<u>\$53.7</u>	<u>\$ 41.4</u>	<u>\$ 37.1</u>

Deferred income tax assets and liabilities for 2010 and 2009 reflect the effect of temporary differences between amounts of assets, liabilities, and equity for financial reporting purposes and the bases of such assets, liabilities, and equity as measured by tax laws, as well as tax loss and tax credit carry forwards. The Company has not recognized any deferred tax liabilities associated with investments and earnings in foreign subsidiaries as they are intended to be permanent in duration. Such amounts may become taxable upon an actual or deemed repatriation in the future. Management believes it is not practicable to estimate any unrecognized deferred tax liability.

## Allison Transmission Holdings, Inc.

## Notes to Consolidated Financial Statements — (Continued)

## NOTE 14. INCOME TAXES (Continued)

Temporary differences and carryforwards that gave rise to deferred tax assets and liabilities included the following (dollars in millions):

	As of December 31, 2010	As of December 31, 2009
Deferred tax assets:		
Deferred interest	\$ 13.3	\$ 13.3
Inventories	3.7	3.6
Warranty accrual	41.2	28.9
Sales allowances and rebates	11.7	14.2
Deferred revenue	21.7	17.1
Post-retirement health care	7.3	3.0
Intangibles	85.0	68.1
Other accrued liabilities	27.5	21.1
Unrealized loss on interest rate derivatives	25.1	13.9
Trade name	33.7	65.1
Operating loss carryforwards	158.3	141.2
Stock based compensation	9.2	6.1
Other comprehensive income	6.6	—
Other	8.1	11.1
Total Deferred tax assets	<u>452.4</u>	<u>406.7</u>
Valuation allowances	<u>(401.9)</u>	<u>(366.5)</u>
Deferred tax liabilities:		
Property, plant and equipment	(29.8)	(26.3)
Loan fees	(0.8)	(1.5)
Goodwill	(171.2)	(120.9)
Post-retirement benefits	(13.9)	—
Other comprehensive income	(5.6)	(10.6)
Other liabilities	(0.2)	(0.4)
Total Deferred tax liabilities	<u>(221.5)</u>	<u>(159.7)</u>
Net Deferred tax liability	<u>\$ (171.0)</u>	<u>\$ (119.5)</u>

The following deferred tax balances are included in the Consolidated Balance Sheets (dollars in millions):

	As of December 31, 2010	As of December 31, 2009
Current deferred tax assets	\$ 4.3	\$ 1.4
Non-current deferred tax liabilities	(175.3)	(120.9)
Net Deferred tax liability	<u>\$ (171.0)</u>	<u>\$ (119.5)</u>

Of the estimated net operating loss carryforwards as of December 31, 2010, approximately 87% relates to U.S. federal net operating loss carryforwards and approximately 13% relates to the U.S. state net operating loss carryforwards. Both U.S. Federal and State operating loss carryforwards will not expire until 2027-2030.

Allison Transmission Holdings, Inc.

Notes to Consolidated Financial Statements — (Continued)

**NOTE 14. INCOME TAXES (Continued)**

The valuation allowances that the Company has recognized relate to certain U.S. federal and state jurisdictions net deferred tax assets. In determining the amount of the valuation allowance necessary, \$171.2 million of the deferred tax liabilities related to indefinite life intangibles have been excluded from the calculation. The change in the valuation allowance and related considerations are as follows (dollars in millions):

December 31, 2008	\$ 225.6
Additions	140.9
December 31, 2009	\$ 366.5
Additions	35.4
December 31, 2010	<u>\$ 401.9</u>

No uncertain tax positions were identified for the years ended December 31, 2010, 2009 and 2008. All of the returns (when filed) will remain subject to examination by the various taxing authorities for the duration of the applicable statute of limitations (generally three years from the earlier of the date of filing or the due date of the return).

From the years ended December 31, 2010, 2009 and 2008, the Company recognized no interest and penalties in the Consolidated Statements of Operations because no uncertain tax positions were identified. The Company follows a policy of recording any interest or penalties in Income tax expense.

**NOTE 15. COMPREHENSIVE INCOME (LOSS)**

The Company's comprehensive income (loss) consists of unrealized net gains and losses on the translation of the assets and liabilities of its foreign operations, derivative instruments that qualify for hedge accounting, available-for-sale securities, and pension and OPEB liability adjustments. The following table reconciles net income (loss) to comprehensive income (loss) with the related tax effects (dollars in millions):

	<u>Comprehensive Income (Loss)</u>		
	<u>Before Tax</u>	<u>Tax Expense</u>	<u>After Tax</u>
Year ended December 31, 2008			
Net loss	\$ (291.0)	\$ (37.1)	\$(328.1)
Foreign currency translation	(0.5)	—	(0.5)
Pension and OPEB liability adjustment	(36.1)	—	(36.1)
Total comprehensive loss	<u>\$ (327.6)</u>	<u>\$ (37.1)</u>	<u>\$(364.7)</u>
Year ended December 31, 2009			
Net loss	\$ (282.5)	\$ (41.4)	\$(323.9)
Foreign currency translation	1.7	—	1.7
Pension and OPEB liability adjustment	57.2	(22.7)	34.5
Available-for-sale securities	2.5	(1.0)	1.5
Total comprehensive loss	<u>\$ (221.1)</u>	<u>\$ (65.1)</u>	<u>\$(286.2)</u>
Year ended December 31, 2010			
Net income	\$ 83.3	\$ (53.7)	\$ 29.6
Foreign currency translation	0.1	—	0.1
Pension and OPEB liability adjustment	(31.8)	(0.1)	(31.9)
Available-for-sale securities	(1.2)	—	(1.2)
Total comprehensive income (loss)	<u>\$ 50.4</u>	<u>\$ (53.8)</u>	<u>\$ (3.4)</u>

## Allison Transmission Holdings, Inc.

## Notes to Consolidated Financial Statements — (Continued)

## NOTE 16. COMMITMENTS AND CONTINGENCIES

*Operating Leases*

The Company leases certain facilities under various operating leases. Rent expense under the non-cancelable operating leases was \$8.2 million, \$9.6 million, and \$9.4 million for the years ended December 31, 2010, 2009 and 2008, respectively. Certain leases contain renewal options.

As of December 31, 2010, future payments under non-cancelable operating leases with a remaining term greater than one year are as follows over each of the next five years and thereafter (dollars in millions):

2011	\$ 5.5
2012	2.9
2013	1.4
2014	0.3
2015	0.2
Thereafter	0.1
Total	<u>\$10.4</u>

*Claims, Disputes, and Litigation*

The Company is party to various legal actions and administrative proceedings and subject to various claims arising in the ordinary course of business. These proceedings primarily involve commercial claims, product liability claims, personal injury claims and workers' compensation claims. The Company believes that the ultimate liability, if any, in excess of amounts already provided for in the consolidated financial statements or covered by insurance on the disposition of these matters will not have a material adverse effect on the financial position, results of operations or cash flows of the Company.

During the second quarter of 2009, the Company identified certain differences between benefits promised under certain benefit plans and the administration of those plans. The Company is amending its plan documents to correct these differences and has filed a request with the Internal Revenue Service ("IRS") to enter into a closing agreement to correct the differences retroactively to the original adoption of the Company's benefit plans. The Company expects the IRS to grant this request; however, if the IRS does not grant the Company this request, then the Company would be required to accrue for and eventually pay these benefits. The Company estimates the cost of these benefits at approximately \$10.0 million. As of December 31, 2010, the Company's expected liability remains approximately \$2.5 million, including potential penalties and fines. The Company is continuing to review its benefit plan offerings, related plan documents and the administration of its plans.

## NOTE 17. CONCENTRATION OF RISK

As of December 31, 2010 and 2009, the Company employed approximately 2,750 employees with more than 90% of those employees in the U.S. Approximately 60% of the Company's U.S. employees were represented by unions and subject to a collective bargaining agreement as of December 31, 2010 and 2009, respectively. In addition, many of the hourly employees outside the U.S. are represented by various unions. The Company is currently operating under a collective bargaining agreement with the UAW Local 933 that expires in November 2012.

Two customers accounted for greater than 10% of net sales within the last three years presented.

% of Net sales	Year ended December 31,		
	2010	2009	2008
Navistar, Inc.	11%	12%	14%
Daimler AG	10%	9%	11%

**Allison Transmission Holdings, Inc.****Notes to Consolidated Financial Statements — (Continued)****NOTE 17. CONCENTRATION OF RISK (Continued)**

No other customers accounted for more than 10% of net sales of the Company during the years ended December 31, 2010, 2009 and 2008.

Three customers accounted for greater than 10% of outstanding Accounts receivable within the last two years presented.

<i>% of Accounts receivable</i>	<u>As of December 31, 2010</u>	<u>As of December 31, 2009</u>
Navistar, Inc.	10%	10%
Daimler AG	10%	6%
BAE Systems plc	1%	15%

No other customers accounted for more than 10% of the outstanding Accounts receivable as of December 31, 2010 or December 31, 2009.

One supplier accounted for greater than 10% of materials purchased for the periods presented:

<i>% of material purchased</i>	<u>Year ended December 31,</u>		
	<u>2010</u>	<u>2009</u>	<u>2008</u>
Linamar Corporation Inc.	13%	13%	15%

No other supplier accounted for more than 10% of material purchases during the years ended December 31, 2010, 2009 and 2008.

**NOTE 18. RESTRUCTURING CHARGES**

During the fourth quarter of 2008 and the first quarter of 2009, the Company began implementing expense reduction programs in an effort to better align its cost structure with decreased sales driven by general economic conditions. The restructuring charges related to these initiatives included retirement incentive and reduction in force programs, which are included in the Consolidated Statements of Operations. The result of the programs was the elimination of approximately 450 hourly and 150 salary positions in the Company. These reductions resulted in curtailment of pension benefits during the first quarter of 2009, resulting in the recognition of a loss related to an increase in the Company's projected benefit obligation and unrecognized prior service costs. The effect of the curtailment on the Company's earnings was a loss of \$2.5 million.

**Allison Transmission Holdings, Inc.****Notes to Consolidated Financial Statements — (Continued)****NOTE 18. RESTRUCTURING CHARGES (Continued)**

By the end of 2009, the expense reduction programs were completed. The following table summarizes the restructuring reserves and charges associated with the programs during the year ended December 31, 2009 (dollars in millions):

	<u>Total</u>
Restructuring reserve at December 31, 2008(1)	\$ 15.7
Restructuring charges:	
Severance expense(2)	\$ 35.3
Pension curtailment loss(3)	2.5
OPEB related pro-rata share adjustment(4)	(7.2)
Net change in Old GM OPEB Receivable / Payable(5)	17.3
Total restructuring charges	\$ 47.9
Payments against reserve(6)	\$(51.0)
Adjustments to pension and OPEB liabilities(7)	(12.6)
Total	\$(63.6)
Restructuring reserve at December 31, 2009	<u>\$ —</u>

- (1) Represents the Company's known liabilities of existing programs as of December 31, 2008.
- (2) Represents lump sum payments and benefit continuation payments.
- (3) Represents the one-time curtailment charge (non-cash) related to the defined benefit pension plan for U.S. hourly employees.
- (4) Represents the Company's reduced OPEB obligation (non-cash) due to the change in its pro-rata share with Old GM.
- (5) Represents the Company's increased contractual obligations (non-cash) with Old GM, incurred in 2009, as it relates to OPEB for hourly employees driven by the re-measurement of the OPEB plan.
- (6) Represents lump sum payments and benefit continuation payments made in 2009.
- (7) Represents (non-cash) adjustments to pension and OPEB liability accounts as they relate to items (3), (4) and (5) above.

For the years ended December 31, 2010, 2009 and 2008, total restructuring charges were \$0.0 million, \$47.9 million and \$15.7 million, respectively.

**NOTE 19. CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS**

The Company pays the Sponsors an annual fee of approximately \$3.0 million (shared equally by the Sponsors) for certain services to be performed by the Sponsors, including certain out-of-pocket expenses incurred in connection with the performance of such services; and additional reasonable compensation for other services provided by the Sponsors from time to time, including advisory and other services with respect to acquisitions and divestitures or sales of equity or debt instruments. For the years ended December 31, 2010, 2009 and 2008, the Sponsors did not provide any additional services beyond the customary services.

## Allison Transmission Holdings, Inc.

## Notes to Consolidated Financial Statements — (Continued)

## NOTE 20. EARNINGS (LOSS) PER SHARE

The Company presents both basic and diluted earnings per share (“EPS”) amounts. Basic EPS is calculated by dividing net income (loss) by the weighted average number of common shares outstanding during the reporting period. Diluted EPS is calculated by dividing net income (loss) by the weighted average number of common shares and common equivalent shares outstanding during the reporting period that are calculated using the treasury stock method for stock options. The treasury stock method assumes that the Company uses the proceeds from the exercise of awards to repurchase common stock at the average market price during the period. The assumed proceeds under the treasury stock method include the purchase price that the grantee will pay in the future, compensation cost for future service that the Company has not yet recognized and any tax benefits that would be credited to additional paid-in-capital when the award generates a tax deduction. If there would be a shortfall resulting in a charge to additional paid-in-capital, such an amount would be a reduction of the proceeds. For the years ended December 31, 2010, 2009 and 2008, outstanding stock options were not included in the diluted EPS computation because they were anti-dilutive.

The following table reconciles the numerators and denominators used to calculate basic EPS and diluted EPS (in millions, except per share data):

	Year ended December 31,		
	2010	2009	2008
Net income (loss)	<u>\$ 29.6</u>	<u>\$(323.9)</u>	<u>\$(328.1)</u>
Weighted average shares of common stock outstanding	153.1	153.0	153.1
Dilutive effect stock-based awards	—	—	—
Diluted weighted average shares of common stock outstanding	<u>153.1</u>	<u>153.0</u>	<u>153.1</u>
Basic earnings (loss) per share attributable to common stockholders	<u>0.19</u>	<u>(2.12)</u>	<u>(2.14)</u>
Diluted earnings (loss) per share attributable to common stockholders	<u>\$ 0.19</u>	<u>\$ (2.12)</u>	<u>\$ (2.14)</u>

## NOTE 21. GEOGRAPHIC INFORMATION

The Company had the following Net sales by country as follows (dollars in millions):

	Year ended December 31,		
	2010	2009	2008
United States	<u>\$ 1,411.0</u>	<u>\$ 1,303.1</u>	<u>\$ 1,504.3</u>
Canada	133.1	145.2	134.3
China	67.3	42.4	52.4
United Kingdom	49.0	52.7	80.0
Germany	33.9	29.3	41.4
Japan	33.7	29.6	26.0
India	24.6	25.7	5.6
Other	173.7	138.7	217.4
Total	<u>\$ 1,926.3</u>	<u>\$ 1,766.7</u>	<u>\$ 2,061.4</u>

## Allison Transmission Holdings, Inc.

## Notes to Consolidated Financial Statements — (Continued)

**NOTE 21. GEOGRAPHIC INFORMATION (Continued)**

The Company had net long-lived assets by country as follows (dollars in millions):

	Year ended December 31,		
	2010	2009	2008
United States	\$523.1	\$564.1	\$624.9
India	54.0	42.5	—
Netherlands	7.1	8.0	9.2
Hungary	4.2	—	—
Others	6.9	6.5	3.8
Total	<u>\$595.3</u>	<u>\$621.1</u>	<u>\$637.9</u>

**NOTE 22. QUARTERLY FINANCIAL INFORMATION**

The following is a summary of the unaudited quarterly results of operations. The Company believes that all adjustments considered necessary for a fair presentation in accordance with GAAP have been included (in millions).

	Quarter ended,			
	March 31	June 30	September 30	December 31
<b>2010</b>				
Net sales	\$ 473.7	\$ 510.2	\$ 482.0	\$ 460.4
Gross profit	209.3	222.6	202.1	194.2
Operating income	91.3	103.8	80.8	65.9
Income before income taxes	24.7	16.5	7.1	35.0
Net income (loss)	10.4	1.1	(6.0)	24.1
<b>2009</b>				
Net sales	\$ 443.7	\$ 433.4	\$ 419.8	\$ 469.8
Gross profit	144.3	128.9	153.4	193.2
Operating income (loss)	14.3	(178.0)	44.9	67.7
(Loss) income before income taxes	(64.1)	(229.5)	(17.5)	28.6
Net (loss) income	(81.3)	(241.1)	(44.3)	42.8

The Company's 2009 quarterly results were affected by certain nonrecurring charges. In the quarter ended March 31, 2009, the Company recorded \$42.5 million of restructuring charges as discussed in NOTE 18 "Restructuring Charges." In the quarter ended June 30, 2009, the Company recorded a \$190.0 million impairment charge as discussed in NOTE 5 "Goodwill and Other Intangibles," a \$36.6 million loss on Old GM OPEB receivable as discussed in NOTE 12 "Benefit Plans," and \$5.5 million of restructuring charges as discussed in NOTE 18 "Restructuring Charges."

**NOTE 23. SUBSEQUENT EVENTS**

The Company has performed an evaluation of subsequent events through March 18, 2011, which is the date the financial statements were issued, and no material subsequent events have been identified.

Through and including (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

Shares



## Allison Transmission Holdings, Inc.

Common Stock

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PROSPECTUS

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**BofA Merrill Lynch**  
Credit Suisse

**Citi**  
Morgan Stanley

**J.P. Morgan**  
Goldman, Sachs & Co.

**PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 13. Other Expenses of Issuance and Distribution.**

The actual and estimated expenses in connection with this offering, all of which will be borne by us, are as follows:

SEC Registration Fee	\$ 87,075
FINRA Filing Fee	75,500
Printing and Engraving Expense	
Legal Fees	
Accounting Fees	
Blue Sky Fees	
Stock Exchange Listing Fees	
Transfer Agent Fee	
Miscellaneous	
Total	<u>\$</u>

**Item 14. Indemnification of Directors and Officers**

Reference is made to Section 102(b)(7) of the DGCL, which enables a corporation in its original certificate of incorporation or an amendment thereto to eliminate or limit the personal liability of a director for violations of the director's fiduciary duty, except (1) for any breach of the director's duty of loyalty to the corporation or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) pursuant to Section 174 of the DGCL, which provides for liability of directors for unlawful payments of dividends or unlawful stock purchase or redemptions or (4) for any transaction from which a director derived an improper personal benefit.

Reference is also made to Section 145 of the DGCL, which provides that a corporation may indemnify any person, including an officer or director, who is, or is threatened to be made, party to any threatened, pending or completed legal action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of such corporation, by reason of the fact that such person was an officer, director, employee or agent of such corporation or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such officer, director, employee or agent acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the Company's best interest and, for criminal proceedings, had no reasonable cause to believe that his conduct was unlawful. A Delaware corporation may indemnify any officer or director in an action by or in the right of the corporation under the same conditions, except that no indemnification is permitted without judicial approval if the officer or director is adjudged to be liable to the corporation. Where an officer or director is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify him against the expenses that such officer or director actually and reasonably incurred.

Our amended and restated certificate of incorporation filed as Exhibit 3.1 to this registration statement provides that our directors will not be personally liable to the Company or its stockholders for monetary damages resulting from breach of their fiduciary duties. However, nothing contained in such provision will eliminate or limit the liability of directors (1) for any breach of the director's duty of loyalty to us or our stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, (3) under Section 174 of the DGCL or (4) for any transaction from which the director derived an improper personal benefit.

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Our amended and restated bylaws provides for indemnification of the officers and directors to the full extent permitted by applicable law.

In addition, we entered into agreements to indemnify our directors and executive officers containing provisions which are in some respects broader than the specific indemnification provisions contained in the DGCL. The indemnification agreements may require us, among other things, to indemnify our directors against certain liabilities that may arise by reason of their status or service as directors and to advance their expenses incurred as a result of any proceeding against them as to which they could be indemnified. The proposed form of such indemnification agreement is filed as Exhibit \_\_\_\_\_ to this Registration Statement.

The proposed form of Underwriting Agreement filed as Exhibit 1.1 to this Registration Statement provides for indemnification by the underwriters of the registrant and its officers and directors for certain liabilities arising under the Securities Act, or otherwise.

### **Item 15. Recent Sales of Unregistered Securities.**

None.

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### Item 16. Exhibits and Financial Statement Schedules.

#### (A) Exhibits

<u>EXHIBIT NO.</u>	<u>DESCRIPTION OF EXHIBIT</u>
1.1*	Form of Underwriting Agreement
3.1*	Form of Amended and Restated Certificate of Incorporation of Allison Transmission Holdings, Inc.
3.2*	Form of Amended and Restated Bylaws of Allison Transmission Holdings, Inc.
4.1*	Form of Stock Certificate
4.2	Indenture governing the 11.0% Senior Notes due 2015, among Allison Transmission, Inc. as Issuer, the Guarantors named therein, and Wells Fargo Bank, National Association, as trustee, dated October 16, 2007
4.3	Form of 11.0% Senior Note due 2015 (included in Exhibit 4.2)
4.4	Indenture governing the 11.25% Senior Toggle Notes due 2015, among Allison Transmission, Inc. as Issuer, the Guarantors named therein, and Wells Fargo Bank, National Association, as trustee, dated October 17, 2007
4.5	Form of 11.25% Senior Toggle Note due 2015 (included in Exhibit 4.4)
5.1*	Form of Opinion of Latham & Watkins LLP
10.1	Credit Agreement among Allison Transmission Holdings, Inc., Allison Transmission, Inc., as Borrower, the Several Lenders from time to time parties thereto, Citicorp North America, Inc., as Administrative Agent, Lehman Brothers Commercial Bank and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Syndication Agents, Sumitomo Mitsui Banking Corporation, as Documentation Agent and Co-Arranger and Citigroup Global Markets Inc., Lehman Brothers Inc. and Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, As Joint Lead Arrangers And Joint Bookrunners, dated as of August 7, 2007
10.2	First Amendment to the Credit Agreement among Allison Transmission Holdings, Inc., Allison Transmission, Inc., as Borrower, the Several Lenders from time to time parties thereto, Citicorp North America, Inc., as Administrative Agent, Lehman Brothers Commercial Bank and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Syndication Agents, Sumitomo Mitsui Banking Corporation, as Documentation Agent and Co-Arranger and Citigroup Global Markets Inc., Lehman Brothers Inc. and Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, As Joint Lead Arrangers And Joint Bookrunners, dated as of November 21, 2008
10.3	Guarantee And Collateral Agreement made by Allison Transmission Holdings, Inc. Allison Transmission, Inc. as Borrower, and the Subsidiary Guarantors party hereto in favor of Citicorp North America, Inc., as Administrative Agent, dated as of August 7, 2007
10.4	Trademark Security Agreement made by Allison Transmission, Inc. in favor of Citicorp North America, Inc., as Administrative Agent, dated as of August 7, 2007
10.5	Copyright Security Agreement made by Allison Transmission, Inc. in favor of Citicorp North America, Inc., as Administrative Agent, dated as of August 7, 2007
10.6*	Amended and Restated Stockholders Agreement
10.7*	Employment and Severance Agreement, between Allison Transmission, Inc. and Lawrence Dewey, dated as of February 7, 2008
10.8*	Employment and Severance Agreement, between Allison Transmission, Inc. and David Graziosi, dated as of November 1, 2007

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<u>EXHIBIT NO.</u>	<u>DESCRIPTION OF EXHIBIT</u>
10.9*	Form of Allison Transmission Holdings, Inc. Indemnification Agreement
10.10*	Allison Transmission Holdings, Inc. 2011 Equity Incentive Award Plan
10.11*	Form of 2011 Equity Incentive Award Plan Restricted Stock Agreement
10.12*	Form of 2011 Equity Incentive Award Plan Restricted Stock Unit Agreement
10.13*	Form of 2011 Equity Incentive Award Plan Stock Option Agreement
21.1	List of Subsidiaries
23.1*	Consent of Latham & Watkins LLP (included in Exhibit 5.1)
23.2	Consent of PricewaterhouseCoopers LLP
24.1	Powers of Attorney (included in the signature pages to this registration statement)

\* To be filed by amendment.

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(B) Financial Statement Schedules

### ***Schedule II — Valuation and Qualifying Accounts***

Certain information required in Schedule II, Valuation and Qualifying Accounts, has been omitted because equivalent information has been included in the financial statements included in this Registration Statement.

Other financial statement schedules have been omitted because they either are not required, are immaterial or are not applicable.

### **Item 17. Undertakings**

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers, and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by us of expenses incurred or paid by a director, officer, or controlling person of us in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, we will, unless in the opinion of counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by us is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

We hereby undertake that:

- (i) for purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.
- (ii) for purposes of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.



**EXHIBIT INDEX**

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4.1*	Form of Stock Certificate
4.2	Indenture governing the 11.0% Senior Notes due 2015, among Allison Transmission, Inc. as Issuer, the Guarantors named therein, and Wells Fargo Bank, National Association, as trustee, dated October 16, 2007
4.3	Form of 11.0% Senior Note due 2015 (included in Exhibit 4.2)
4.4	Indenture governing the 11.25% Senior Toggle Notes due 2015, among Allison Transmission, Inc. as Issuer, the Guarantors named therein, and Wells Fargo Bank, National Association, as trustee, dated October 17, 2007
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5.1*	Form of Opinion of Latham & Watkins LLP
10.1	Credit Agreement among Allison Transmission Holdings, Inc., Allison Transmission, Inc., as Borrower, the Several Lenders from time to time parties thereto, Citicorp North America, Inc., as Administrative Agent, Lehman Brothers Commercial Bank and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Syndication Agents, Sumitomo Mitsui Banking Corporation, as Documentation Agent and Co-Arranger and Citigroup Global Markets Inc., Lehman Brothers Inc. and Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, As Joint Lead Arrangers And Joint Bookrunners, dated as of August 7, 2007
10.2	First Amendment to the Credit Agreement among Allison Transmission Holdings, Inc., Allison Transmission, Inc., as Borrower, the Several Lenders from time to time parties thereto, Citicorp North America, Inc., as Administrative Agent, Lehman Brothers Commercial Bank and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Syndication Agents, Sumitomo Mitsui Banking Corporation, as Documentation Agent and Co-Arranger and Citigroup Global Markets Inc., Lehman Brothers Inc. and Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, As Joint Lead Arrangers And Joint Bookrunners, dated as of November 21, 2008
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10.5	Copyright Security Agreement made by Allison Transmission, Inc. in favor of Citicorp North America, Inc., as Administrative Agent, dated as of August 7, 2007
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10.10*	Allison Transmission Holdings, Inc. 2011 Equity Incentive Award Plan
10.11*	Form of 2011 Equity Incentive Award Plan Restricted Stock Agreement
10.12*	Form of 2011 Equity Incentive Award Plan Restricted Stock Unit Agreement

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<b>EXHIBIT NO.</b>	<b>DESCRIPTION OF EXHIBIT</b>
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21.1	List of Subsidiaries
23.1*	Consent of Latham & Watkins LLP (included in Exhibit 5.1)
23.2	Consent of PricewaterhouseCoopers LLP
24.1	Powers of Attorney (included in the signature pages to this registration statement)

\* To be filed by amendment.

INDENTURE

Dated as of October 16, 2007

Among

ALLISON TRANSMISSION, INC.

THE GUARANTORS PARTY HERETO

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Trustee

11% SENIOR NOTES DUE 2015

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EXHIBITS

Exhibit A	Form of Senior Note
Exhibit B	Form of Certificate of Transfer
Exhibit C	Form of Certificate of Exchange
Exhibit D	Form of Note Guarantee

INDENTURE, dated as of October 16, 2007, between Allison Transmission, Inc., a Delaware corporation (the “Issuer”) and Wells Fargo Bank, National Association, a national banking association, as Trustee.

WITNESSETH:

WHEREAS, the Issuer has duly authorized the creation of an issue of \$550,000,000 aggregate principal amount of 11% Senior Notes due 2015 (the “Initial Notes”); and

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture and each Guarantor, if any, has duly authorized the execution and delivery of each Note Guarantee.

NOW, THEREFORE, the Issuer, each Guarantor, if any, and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Notes.

## ARTICLE 1

### DEFINITIONS AND INCORPORATION BY REFERENCE

#### Section 1.01. Definitions.

“144A Global Note” means a Global Note substantially in the form of Exhibit A hereto, bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

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

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person; and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Acquisition” means the acquisition by Clutch Operating Company, Inc., which was renamed Allison Transmission Holdings, Inc. upon the closing of the Acquisition, of the Allison Transmission business from General Motors Corporation consummated on August 7, 2007.

“Acquisition Closing Date” means August 7, 2007.

“Acquisition Documents” means the Asset Purchase Agreement and any other documents entered into in connection therewith, in each case as amended, supplemented or modified from time to time.

“Additional Notes” means additional Notes (other than the Initial Notes and other than Notes issued for such Initial Notes pursuant to Sections 2.06, 2.07, 2.10 and 3.06 hereof) issued from time to time under this Indenture in accordance with Sections 2.01 and 4.09 hereof.

“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; provided that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” have correlative meanings.

“Agent” means any Registrar or Paying Agent.

“Applicable Premium” has the meaning set forth in Exhibit A hereto.

“Applicable Procedures” means, with respect to any transfer, redemption or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and/or Clearstream that apply to such transfer, redemption or exchange.

“Asset Purchase Agreement” means the Asset Purchase Agreement, dated as of June 28, 2007, by and between General Motors Corporation and Clutch Operating Company, Inc.

“Asset Sale” means:

- (1) the sale, lease, conveyance or other disposition of any assets or rights; and
- (2) the issuance or sale of Equity Interests in any of the Issuer’s Restricted Subsidiaries.

Notwithstanding the preceding, none of the following items shall be deemed to be an Asset Sale:

- (1) a disposition of Cash Equivalents or obsolete or worn out property or equipment in the ordinary course of business or inventory (or other assets) held for sale in the ordinary course of business and dispositions of property no longer used or useful in the conduct of the business of the Issuer and its Restricted Subsidiaries;
- (2) the disposition of all or substantially all of the assets of the Issuer in a manner permitted pursuant to Section 5.01 or any disposition that constitutes a Change of Control pursuant to this Indenture;

(3) the making of any Restricted Payment or Permitted Investment that is permitted to be made, and is made, pursuant to Section 4.07 or the granting of a Lien permitted by Section 4.12;

(4) any disposition of assets or issuance or sale of Equity Interests of any Restricted Subsidiary in any transaction or series of transactions with an aggregate Fair Market Value of less than \$20.0 million;

(5) any disposition of property or assets or issuance of securities by a Restricted Subsidiary to the Issuer or by the Issuer or a Restricted Subsidiary to another Restricted Subsidiary;

(6) the sale, lease, assignment, sublease, license or sublicense of any assets or rights in the ordinary course of business;

(7) any sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(8) foreclosures on assets;

(9) disposition of an account receivable in connection with the collection or compromise thereof;

(10) [intentionally omitted];

(11) [intentionally omitted];

(12) the grant in the ordinary course of business of licenses of patents, trademarks, know-how and any other intellectual property;

(13) any financing transaction with respect to property built or acquired by the Issuer or any Restricted Subsidiary after the Issue Date, including Sale and Lease-Back Transactions and asset securitizations permitted by this Indenture;

(14) foreclosures, condemnation or any similar action on assets or the granting of Liens not prohibited by this Indenture;

(15) the discount of inventory, accounts receivable or notes receivable in the ordinary course of business or the conversion of accounts receivable to notes receivable;

(16) any surrender or waiver of contract rights or the settlement, release or surrender of contract rights or other litigation claims in the ordinary course of business;

(17) to the extent allowable under Section 1031 of the Code, any exchange of like property (excluding any boot thereon) for use in a Permitted Business; and

(18) dispositions in connection with outsourcing of services.

“Bankruptcy Law” means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

“Board of Directors” means (1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board; (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.

“Business Day” means each day that is not a Legal Holiday.

“Capital Lease Obligation” means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

“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 interests (whether general or limited) or membership interests; 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, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash Equivalents” means:

- (1) United States dollars or, in the case of a Foreign Subsidiary, such local currencies held by it from time to time in the ordinary course of business;
- (2) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition;
- (3) certificates of deposit, time deposits and eurodollar time deposits with maturities of 24 months or less from the date of acquisition, bankers’ acceptances with

maturities not exceeding 24 months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$250.0 million;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5) commercial paper having a rating of at least A-1 from Moody's or P-1 from S&P and, in each case, maturing within 24 months after the date of acquisition and Indebtedness and Preferred Stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 24 months or less from the date of acquisition;

(6) readily marketable direct obligations issued by any state of the United States or any political subdivision thereof having one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 24 months or less from the date of acquisition;

(7) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another rating agency), and in each case maturing within 24 months after the date of creation or acquisition thereof;

(8) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's;

(9) instruments equivalent to those referred to in clauses (1) to (8) above denominated in euro or pound sterling or any other foreign currency comparable in credit quality and tenor to those referred to above and customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by any Restricted Subsidiary organized in such jurisdiction; and

(10) investment in funds which invest substantially all of their assets in Cash Equivalents of the kinds described in clauses (1) through (9) of this definition.

"Change of Control" means the occurrence of any of the following:

(1) the sale, lease or transfer (other than by way of merger or consolidation) 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 other than a Permitted Holder; or

(2) the Issuer becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) 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), 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), other than one or more Permitted Holders, 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 (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision) of 50% or more of the total voting power of the Voting Stock of the Issuer (directly or through the acquisition of voting power of Voting Stock of any of the Issuer's direct or indirect parent companies); or

(3) during any period of two consecutive years, individuals who at the beginning of such period constituted the Board of Directors of Parent (together with any new directors whose election to such Board of Directors of Parent or whose nomination for election by the interest holders of Parent was approved by a vote of 66<sup>2</sup>/<sub>3</sub>% of the directors of Parent then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved or directors who were nominated or approved by the Sponsors) cease for any reason to constitute a majority of the Board of Directors of Parent.

“Clearstream” means Clearstream Banking Societe Anonyme and any successor thereto.

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

“Consolidated Depreciation and Amortization Expense” means with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees, and other noncash charges (excluding any noncash item that represents an accrual or reserve for a cash expenditure for a future period) 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 (a) consolidated interest expense of such Person and its Restricted Subsidiaries for such period (including amortization of original issue discount, noncash interest payments (other than imputed interest as a result of purchase accounting), commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing, the interest component of Capital Lease Obligations, net payments (if any) pursuant to interest rate Hedging Obligations, but excluding amortization of deferred financing fees or expensing of any bridge or other financing fees and (b) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, less (d) interest income actually received in cash 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, and otherwise determined in accordance with GAAP; provided, however, that

(1) any after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including relating to the

Transactions), severance, relocation costs and curtailments or modifications to pension and post-retirement employee benefit plans shall be excluded,

(2) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period,

(3) any after-tax effect of income or loss from disposed of or discontinued operations and any net after-tax gains or losses on disposal of disposed of, abandoned or discontinued operations shall be excluded,

(4) any after-tax effect of gains or losses (less all fees and expenses relating thereto) attributable to 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 shall be excluded,

(5) the Net Income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided that Consolidated Net Income of the Issuer shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) to the referent Person or a Restricted Subsidiary thereof in respect of such period;

(6) solely for the purpose of determining the amount available for Restricted Payments under Section 4.07(a)(3)(i), the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded if the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its Net Income is not at the date of determination wholly 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 restriction with respect to the payment of dividends or similar distributions has been legally waived; provided that Consolidated Net Income of the Issuer will be increased by the amount of dividends or other distributions or other payments actually 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,

(7) the effect of any non-cash items resulting from any amortization, write-up, write-down or write-off of assets (including intangible assets, goodwill and deferred financing costs), or a write-down of liabilities in connection with the Transactions or any future acquisition, merger, consolidation or similar transaction (excluding any such non-cash item to the extent that it represents an accrual of or reserve for cash expenditures in any future period except to the extent such item is subsequently reversed) shall be excluded;

(8) any after-tax effect of income or loss from the early extinguishment of (i) Indebtedness, (ii) Hedging Obligations or (iii) other derivative instruments shall be excluded,

(9) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded,

(10) any non-cash compensation charge or expense recorded from grants of stock appreciation or similar rights, stock options, restricted stock or other rights shall be excluded,

(11) 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 Acquisition Closing 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,

(12) accruals and reserves that are established within twelve months after the Acquisition Closing Date that are so required to be established as a result of the Transactions in accordance with GAAP shall be excluded, and

(13) the following items shall be excluded:

(a) any net unrealized gain or loss (after any offset) resulting in such period from Hedging Obligations and the application of Statement of Financial Accounting Standards No. 133; and

(b) any net unrealized gain or loss (after any offset) resulting in such period from currency translation gains or losses related to currency remeasurements of Indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk).

In addition, to the extent not already included in the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall include the amount of proceeds received from business interruption insurance and reimbursements of any expenses and charges that are covered by indemnification or other reimbursement provisions in connection with any Permitted Investment or any sale, conveyance, transfer or other disposition of assets permitted under this Indenture.

Notwithstanding the foregoing, for the purpose of Section 4.07 only (other than Section 4.07(a)(3)), 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 the Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments made by the Issuer and the Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments made by the Issuer and any Restricted Subsidiary, 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 4.07(a)(3).

“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, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) 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 (iii) 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 of the Trustee” means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office shall be as designated by the Trustee as of the date hereof, or such other address as the Trustee may designate from time to time by notice to the Holders and the Issuer, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by written notice to the Holders and the Issuer).

“Credit Agreement” means that certain Credit Agreement, dated as of the Acquisition Closing Date, by and among the Issuer and Citigroup Global Markets Inc., Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated as joint-lead arrangers and joint bookrunners, Citicorp North America, Inc., as administrative agent, Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as syndication agents, 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 (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) or commercial paper facilities, in each case, with banks or other institutional lenders or investors providing for revolving credit loans, term loans, notes or other securities, 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) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced (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.

“Custodian” means the Trustee, as custodian with respect to the Notes issuable or issued in whole or in part in global form, or any successor entity thereto appointed as a custodian hereunder and having become such pursuant to the applicable provisions of this Indenture.

“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.

“Definitive Note” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06(c) hereof, substantially in the form of Exhibit A hereto, except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“Depository” means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof 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 a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation less the amount of cash or Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

“Designated Preferred Stock” means Preferred Stock of the Issuer or Parent, as applicable (other than Disqualified Stock), that is issued for cash (other than to the Issuer or any of its Subsidiaries or an employee stock ownership plan or trust established by the Issuer or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate, on the issuance date thereof.

“Disqualified Stock” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable (other than solely as a result of a change of control or asset sale), pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock (other than solely as a result of a change of control or asset sale), in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Issuer to repurchase such Capital Stock upon the occurrence of a Change of Control or an Asset Sale shall 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 Section 4.07.

“Domestic Subsidiary” means any Restricted Subsidiary of the Issuer that was formed under the laws of the United States or any state of the United States or the District of Columbia or that guarantees or otherwise provides direct credit support for any Indebtedness of the Issuer.

“EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period plus, without duplication, the following (in each case, on a consolidated basis, determined in accordance with GAAP, and other than with respect to clauses (11) and (12), to the extent deducted in computing Consolidated Net Income):

- (1) the provision for taxes based on income or profits, plus franchise or similar taxes, of such Person for such period, plus
- (2) Consolidated Interest Expense of such Person for such period, plus
- (3) Consolidated Depreciation and Amortization Expense of such Person for such period, plus
- (4) the after-tax effect of any extraordinary, non-recurring or unusual losses (less all fees and expenses relating thereto); plus
- (5) the amount of any restructuring charges or reserves (which, for the avoidance of doubt, shall include retention, severance, systems establishment cost, excess pension charges, contract termination costs, including future lease commitments, and costs to consolidate facilities and relocate employees) including in connection with the Transactions, plus
- (6) other non-cash charges, expenses or losses (excluding any such non-cash charge, expense or loss to the extent that it represents an accrual of or reserve for cash expenses in any future period or an amortization of a prepaid cash expense that was paid in a prior period (but including any non-cash expenses resulting from purchase accounting in connection with the Transactions and the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances)), plus
- (7) any gain to the extent that it represents a reversal of an accrual of or reserve for a potential cash payment in any future period, plus
- (8) operating expense reductions and other operating improvements, synergies or costs savings that have been realized or are reasonably anticipated to be realizable within 18 months of any Investment, acquisition, disposition, merger, consolidation, discontinued operation or action being given pro forma effect (including, to the extent applicable, from the Transactions); plus
- (9) costs and expenses of the nature identified on Schedule I hereto, to the extent such adjustments are applicable during the period in which EBITDA is being calculated; plus
- (10) the amount of management, monitoring, consulting, advisory fees, termination payments and related expenses paid to the Sponsors (or any accruals relating to such fees and related expenses) during such period pursuant to the Management Agreement, less
- (11) extraordinary, non-recurring or unusual gains (including any gains resulting from the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances)), less

(12) other non-cash income or gains (excluding any such non-cash gain to the extent that it represents a reversal of an accrual of or reserve for a potential cash payment in any future period (but including any non-cash gains resulting from the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances))).

“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 sale or private sale of any Capital Stock of the Issuer or any of its direct or indirect parent entities (excluding Disqualified Stock of the Issuer), other than (i) public offerings with respect to common stock of the Issuer or of any of its direct or indirect parent entities registered on Form S-4 or Form S-8, (ii) any such public sale that constitutes an Excluded Contribution or (iii) an issuance to any Subsidiary of the Issuer.

“Euroclear” means Euroclear 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, or any successor statute or statutes thereto, and the rules and regulations of the SEC promulgated thereunder.

“Exchange Notes” has the meaning set forth in the Senior Interim Loan Credit Agreement.

“Excluded Contribution” means net cash proceeds, marketable securities or Qualified Proceeds, in each case received by the Issuer and its Restricted Subsidiaries from:

- (1) contributions to its common equity capital; and
- (2) the sale (other than to a Subsidiary or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Issuer or any Subsidiary) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock),

in each case designated as Excluded Contributions pursuant to an Officer’s Certificate.

“Existing Indebtedness” means Indebtedness of the Issuer and its Subsidiaries (other than Indebtedness under the Credit Agreement, the Senior Interim Loan Credit Agreement, the Notes and the Note Guarantees in existence on the Issue Date, until such amounts are repaid).

“Fair Market Value” means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Board of Directors of Parent.

“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 Restricted Subsidiary incurs, assumes, guarantees or repays any Indebtedness or issues 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, assumption, guarantee or repayment of Indebtedness, or such issuance or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period. Investments, acquisitions, dispositions, mergers, consolidations or discontinued operations changes that have been made by the Issuer or any Restricted Subsidiary during the subject period or subsequent to such period and on or prior to or simultaneously with the Calculation Date or if the Issuer or any Restricted Subsidiary had accounted for any of its business as a discontinued operation during any such period, then the Fixed Charge Coverage Ratio shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers or consolidations (and the change in any associated Fixed Charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the subject period and that such discontinued operation was disposed of on the first day of such 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 the related hedge has a remaining term in excess of twelve months). Interest on a Capital Lease Obligation shall be deemed to accrue at the interest rate reasonably determined by a responsible financial or accounting officer of the Person to be the rate of interest implicit in such Capital 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 Person may designate.

For purposes of this definition, whenever pro forma effect is to be given to an Investment, acquisition, disposition, merger, consolidation, discontinued operation or action taken or initiated (including, without limitation, the Transactions) and the amount of income or earnings relating thereto, the pro forma calculations shall be determined in good faith by a responsible financial or accounting officer of the Issuer. Any such pro forma calculation may include adjustments appropriate, in the reasonable determination of such responsible financial officer as set forth in an Officer’s Certificate, to reflect (1) operating expense reductions and other operating improvements, synergies or cost savings that have been realized or are reasonably anticipated to be realizable within 18 months of such Investment, acquisition, disposition, merger, consolidation, discontinued operation or action being given pro forma effect (including, to the extent applicable, from the Transactions), and (2) all one-time costs and

expenses identified on Schedule I hereto, to the extent such costs and expenses, without duplication, continue to be applicable to such period.

“Fixed Charges” means, with respect to any Person for any period, the sum of, without duplication, (a) Consolidated Interest Expense of such Person for such period, and (b) all cash dividends paid during such period (excluding items eliminated in consolidation) on any series of Disqualified Stock or Preferred Stock of such Person and its Restricted Subsidiaries.

“Foreign Subsidiary” means any Restricted Subsidiary of the Issuer that is not a Domestic Subsidiary.

“GAAP” means generally accepted accounting principles 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 from time to time.

“Global Note Legend” means the legend set forth in Section 2.06(g)(ii) hereof, which is required to be placed on all Global Notes issued under this Indenture.

“Global Notes” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes deposited with or on behalf of and registered in the name of the Depository or its nominee, substantially in the form of Exhibit A hereto and that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, issued in accordance with Section 2.01, 2.06(b) or 2.06(d) hereof.

“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.

“Guarantee” means 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 (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

“Guarantors” means (1) each Domestic Subsidiary of the Issuer on the date of this Indenture which is an obligor under the Credit Agreement and (2) each other Subsidiary of the Issuer that executes a Note Guarantee in accordance with the provisions of this Indenture, in each

case, together with their respective successors and assigns until the Note Guarantee of such Person has been released in accordance with the provisions of this Indenture.

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

- (1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;
- (2) other agreements or arrangements designed to manage interest rates or interest rate risk; and
- (3) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

“Holder” means a Person in whose name a Note is registered.

“Indebtedness” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker’s acceptances;
- (4) representing Capital Lease Obligations;
- (5) representing the balance deferred and unpaid of the purchase price of any property or services (including, without limitation, earn-out obligations that are reflected as a liability on the balance sheet of such Person in accordance with GAAP) due more than six months after such property is acquired or such services are completed; or
- (6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP (excluding the footnotes thereto). In addition, the term “Indebtedness” includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person. Notwithstanding the foregoing, Indebtedness shall be deemed not to include: (a) Contingent Obligations incurred in the ordinary course of business and not in respect of borrowed money; (b) prepaid revenues; or (c) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller.

“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.

“Initial Notes” has the meaning assigned to it in the preamble to this Indenture.

“Interest Payment Date” shall have the meaning set forth in the Note.

“Interest Period” shall have the meaning set forth in the Note.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or an equivalent rating by any other rating agency.

“Investments” means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP (excluding the footnotes thereto). If the Issuer or any Subsidiary of the Issuer sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Issuer such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of the Issuer, the Issuer shall be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Issuer’s Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in Section 4.07(c). The acquisition by the Issuer or any Subsidiary of the Issuer of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Issuer or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in Section 4.07(c). Except as otherwise provided in this Indenture, the amount of an Investment shall be determined at the time the Investment is made and without giving effect to subsequent changes in value.

“Issue Date” means October 16, 2007.

“Issuer” has the meaning assigned to it in the preamble to this Indenture.

“Issuer Order” means a written request or order signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer, the principal accounting officer or any vice president of the Issuer, and delivered to the Trustee.

“Legal Holiday” means a Saturday, a Sunday or a day on which banking institutions are not required to be open in the State of New York or at any place of payment.

“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, however, that in no event shall an operating lease be deemed to constitute a Lien.

“Loans” has the meaning set forth in the Senior Interim Loan Credit Agreement.

“Management Agreement” means that Services Agreement by and among certain of the management companies associated with the Sponsors or their advisors, if applicable, and Parent, dated the Acquisition Closing Date.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

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

“Net Proceeds” means the aggregate cash proceeds received by the Issuer or any Restricted Subsidiary in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale), net of (1) the direct costs relating to such Asset Sale and the sale of any Designated Non-cash Consideration, including, without limitation, legal, accounting and investment banking fees, sales commissions, relocation expenses incurred as a result of the Asset Sale, and taxes paid or payable as a result of the Asset Sale after taking into account any available tax credits or deductions and any tax sharing arrangements, (2) amounts required to be applied to the repayment of Indebtedness, other than Indebtedness under a Credit Facility, secured by a Lien on the asset or assets that were the subject of such Asset Sale, and (3) any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

“Non-Recourse Debt” means Indebtedness:

(1) as to which neither the Issuer nor any Restricted Subsidiary (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise or (c) constitutes the lender;

(2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Issuer or any Restricted Subsidiary to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and

(3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Issuer or any Restricted Subsidiary.

“Non-U.S. Person” means a Person who is not a U.S. Person.

“Note Guarantee” means the Guarantee by each Guarantor of the Issuer’s obligations under this Indenture and the Notes, executed pursuant to the provisions of this Indenture.

“Notes” means the Initial Notes and more particularly means any Note authenticated and delivered under this Indenture. For all purposes of this Indenture, the term “Notes” shall also include any Additional Notes that may be issued under a supplemental indenture. The Notes are separate series of Notes, but shall be treated as a single class for all purposes under this Indenture, except as set forth herein. For purposes of this Indenture, all references to Notes to be issued or authenticated upon transfer, replacement or exchange shall be deemed to refer to Notes of the applicable series.

“Obligations” means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“Officer” means the Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of the Issuer.

“Officer’s Certificate” means a certificate signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuer, that meets the requirements of Section 12.04 hereof.

“Opinion of Counsel” means a written opinion from legal counsel that meets the requirements of Section 12.04 hereof. The counsel may be an employee of or counsel to the Issuer or any Subsidiary of the Issuer.

“Parent” means Allison Transmission Holdings, Inc., a Delaware corporation, and its successors.

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

“Permitted Asset Swap” means the substantially concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Issuer or any of its Restricted Subsidiaries and another Person; provided that any cash or Cash Equivalents received must be applied in accordance with the covenant described under Section 4.10.

“Permitted Business” means the business and any services, activities or businesses incidental or directly related or similar to, any line of business engaged in by the Issuer and its Subsidiaries as of the Issue Date or any business activity that is a reasonable extension, development or expansion thereof or ancillary thereto.

“Permitted Holders” means each of (i) the Sponsors, (ii) only for so long as they collectively hold less than the Sponsors, members of management of the Issuer or its direct or indirect parent companies on the Issue Date who are holders of Equity Interests of the Issuer (or any of its direct or indirect parent companies) and (iii) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided that, in the case of such group and without giving effect to the existence of such group or any other group, such Sponsors, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Issuer or any of its direct or indirect parent companies.

“Permitted Investments” means:

- (1) any Investment by the Issuer or a Restricted Subsidiary of the Issuer in a Restricted Subsidiary of the Issuer;
- (2) any Investment in Cash Equivalents;
- (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 substantially all of its assets to, or is liquidated into, the Issuer or a Restricted Subsidiary of the Issuer;
- (4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10;
- (5) any Investment solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Issuer;
- (6) any Investments received in compromise or resolution of (a) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Issuer or any Restricted Subsidiary, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer or (b) litigation, arbitration or other disputes;
- (7) Investments represented by Hedging Obligations;
- (8) loans or advances to employees other than executives restricted by the Sarbanes-Oxley Act of 2002 made in the ordinary course of business of the Issuer or any

Restricted Subsidiary of the Issuer in an aggregate principal amount not to exceed \$15.0 million at any one time outstanding;

(9) guarantees (including Guarantees) of Indebtedness permitted under Section 4.09 and performance guarantees in the ordinary course of business;

(10) Investments consisting of licensing of intellectual property pursuant to joint marketing arrangements with other Persons;

(11) [intentionally omitted];

(12) 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;

(13) Investments of a Restricted Subsidiary of the Issuer acquired after the Issue Date or of an entity merged into, amalgamated with, or consolidated with a Restricted Subsidiary of the Issuer in a transaction that is not prohibited by Section 5.01 after the Issue Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(14) repurchases of the Notes;

(15) any Investment existing on the Issue Date and any modification, replacement, renewal or extension thereof; provided, however, that the amount of any such Investment may be increased (x) as required by the terms of such Investment as in existence on the Issue Date or (y) as otherwise permitted under this Indenture;

(16) any Investment in a Permitted Business having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (16) that are at that time outstanding, not to exceed \$125.0 million at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value); and

(17) other Investments in any Person (other than the Issuer or one of its direct or indirect parent companies) having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (17) that are at the time outstanding, not to exceed \$125.0 million.

“Permitted Liens” means:

(1) Liens securing Obligations and Indebtedness under or pursuant to the Credit Facilities incurred and then outstanding permitted by Section 4.09(b)

(i);

(2) Liens in favor of the Issuer or the Guarantors;

(3) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Issuer or any Subsidiary of the Issuer; provided that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Issuer or the Subsidiary;

(4) Liens on property (including Capital Stock) existing at the time of acquisition of the property or assets by the Issuer or any Subsidiary of the Issuer; provided that such Liens were in existence prior to, such acquisition, and not incurred in contemplation of, such acquisition;

(5) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by Section 4.09(b)(iv) covering only the assets acquired with or financed by such Indebtedness;

(6) Liens existing on the Issue Date;

(7) Liens created for the benefit of (or to secure) the Notes or the Note Guarantees;

(8) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under this Indenture; provided, however, that:

(a) the new Lien is limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Indebtedness (plus improvements and accessions to such property, or proceeds or distributions thereof); 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 original Indebtedness and (ii) an amount necessary to pay any fees and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge;

(9) Liens with respect to the assets of a Restricted Subsidiary that is not a Guarantor securing Indebtedness of such Restricted Subsidiary incurred in accordance with Section 4.09(b);

(10) Liens securing Indebtedness or other obligations of a Restricted Subsidiary owing to the Issuer or another Restricted Subsidiary of the Issuer permitted to be Incurred in accordance with Section 4.09(b);

(11) Liens on property or assets used to defease or to satisfy and discharge Indebtedness; provided that such defeasance or satisfaction and discharge is not prohibited by this Indenture;

(12) Liens for taxes, assessments or governmental charges or levies on the property of the Issuer or any Restricted Subsidiary if the same shall not at the time be

delinquent or thereafter can be paid without penalty, or are being contested in good faith and by appropriate proceedings promptly instituted and diligently concluded, provided that any reserve or other appropriate provision that shall be required in conformity with GAAP shall have been made therefore;

(13) Liens imposed by law, such as carriers', warehousemen's and mechanics' Liens and other similar Liens, on the property of the Issuer or any Restricted Subsidiary arising in the ordinary course of business and securing payment of obligations that are not more than 60 days past due or are being contested in good faith and by appropriate proceedings;

(14) Liens on the property of the Issuer or any Restricted Subsidiary Incurred in the ordinary course of business to secure performance of obligations with respect to statutory or regulatory requirements, performance or return-of-money bonds, surety bonds or other obligations of a like nature and Incurred in a manner consistent with industry practice, in each case which are not Incurred in connection with the borrowing of money, the obtaining of advances or credit or the payment of the deferred purchase price of property and which do not in the aggregate impair in any material respect the use of property in the operation of the business of the Issuer and the Restricted Subsidiaries taken as a whole;

(15) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws or similar legislation or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case incurred in the ordinary course of business;

(16) minor survey exceptions, minor encumbrances, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real properties or Liens incidental, to the conduct of the business of such Person or to the ownership of its properties which were not incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(17) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(18) leases, subleases, licenses or sublicenses granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Issuer or any of its Restricted Subsidiaries and do not secure any Indebtedness;

(19) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases entered into by the Issuer and its Restricted Subsidiaries in the ordinary course of business;

(20) Liens on accounts receivable and related assets incurred in connection with a receivables facility permitted by Section 4.09(b)(xii);

(21) deposits made in the ordinary course of business to secure liability to insurance carriers;

(22) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation and exportation of goods in the ordinary course of business;

(23) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection; (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business; and (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(24) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness; (ii) relating to pooled deposit or sweep accounts of the Issuer or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Issuer and its Restricted Subsidiaries; or (iii) relating to purchase orders and other agreements entered into with customers of the Issuer or any of its Restricted Subsidiaries in the ordinary course of business; and

(25) Liens securing obligations that do not exceed \$75.0 million at any one time outstanding.

“Permitted Payments to Parent” means, payments (directly or in the form of dividends, loans or otherwise) to, a direct or indirect parent entity of the Issuer in amounts required for such Person to pay:

(1) franchise taxes and other fees, taxes and expenses required to maintain its corporate existence;

(2) for so long as the Issuer is a member of a group filing a consolidated or combined tax return such direct or indirect parent entity, an allocable portion of the tax liabilities of such group that is attributable to the Issuer and its Subsidiaries;

(3) customary salary, bonus, severance and other benefits payable to, and indemnities provided on behalf of, officers and employees of such direct or indirect parent entity of the Issuer to the extent such salaries, bonuses, severance, indemnities and other benefits are attributable to the ownership or operation of the Issuer and its Restricted Subsidiaries;

(4) payments to the Sponsors and any of their Affiliates for any other financial advisory, financing, underwriting or placement services or in respect of investment banking activities, including, without limitation, in connection with acquisitions or divestitures, which payments are approved by a majority of the disinterested members of the Board of Directors of Parent in good faith;

(5) general corporate overhead expenses for such direct or indirect parent entity of the Issuer to the extent such expenses are attributable to the ownership or operation of the Issuer and its Restricted Subsidiaries; and

(6) reasonable fees and expenses incurred in connection with any unsuccessful debt or equity offering by such direct or indirect parent entity of the Issuer.

“Permitted Refinancing Indebtedness” means any Indebtedness of the Issuer or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge other Indebtedness of the Issuer or any Restricted Subsidiary (other than intercompany Indebtedness); provided that:

(1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);

(2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged;

(3) if the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged is subordinated in right of payment to the Notes, such Permitted Refinancing Indebtedness is subordinated in right of payment to the Notes at least to the same extent as the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged; and

(4) such Indebtedness is incurred either by the Issuer or by the Restricted Subsidiary who is the obligor on the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged.

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

“PIK Interest” has the meaning set forth in the Senior Interim Loan Credit Agreement.

“Preferred Stock”, as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) that is preferred as to the payment of

dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

“Private Placement Legend” means the legend set forth in Section 2.06(g)(i) hereof to be placed on all Notes issued under this Indenture, except where otherwise permitted by the provisions of this Indenture.

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

“Qualified Proceeds” means the fair market value of assets that are used or useful in, or Capital Stock of any Person engaged in, a Permitted Business; provided, however, that the fair market value of any such assets or Capital Stock shall be determined by the Board of Directors of Parent in good faith.

“Rating Agencies” means Moody’s and S&P.

“Record Date” shall have the meaning set forth in the applicable Note.

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

“Regulation S Global Note” means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as applicable.

“Regulation S Permanent Global Note” means a permanent Global Note in the form of Exhibit A hereto, bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

“Regulation S Temporary Global Note” means a temporary Global Note in the form of Exhibit A hereto, bearing the Global Note Legend, the Private Placement Legend and the Regulation S Temporary Global Note Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903.

“Regulation S Temporary Global Note Legend” means the legend set forth in Section 2.06(g)(iii) hereof.

“Related Business Assets” means assets (other than cash or Cash Equivalents) used or useful in a Permitted Business, provided that any assets received by the Issuer or a Restricted Subsidiary in exchange for assets transferred by the Issuer or a Restricted Subsidiary shall not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person would become a Restricted Subsidiary.

“Responsible Officer” means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time

shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

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

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

"Restricted Subsidiary" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

"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.

"SEC" means the U.S. Securities and Exchange Commission.

"S&P" means Standard & Poor's, a division of The McGraw-Hill Companies, Inc., and any successor to its rating agency business.

"Sale and Lease-Back Transaction" means any arrangement providing for the leasing by the Issuer or any of its Restricted Subsidiaries of any real or tangible personal property, which property has been or is to be sold or transferred by the Issuer or such Restricted Subsidiary to a third Person in contemplation of such leasing.

"Senior Debt" means the principal of, premium, if any, and interest (including any interest accruing after the commencement of any bankruptcy proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed or allowable claim under applicable law) on any Indebtedness, whether outstanding on the Issue Date or thereafter created, incurred or assumed, unless, in the case of any particular obligation, the instrument creating or evidencing the same or pursuant to which the same is outstanding expressly provides that such obligation shall be subordinate or pari passu in right of payment to the notes. Without limiting the generality of the foregoing, "Senior Debt" shall also include the principal of, premium, if any, interest (including any interest accruing after the commencement of any bankruptcy proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed or allowable claim under applicable law) on, and all other amounts owing in respect of (including guarantees of the foregoing obligations):

(1) all monetary obligations of every nature of the Issuer under, or with respect to, the Credit Agreement, including, without limitation, obligations to pay principal, premium and interest, reimbursement obligations under letters of credit, fees, expenses and indemnities (and guarantees thereof); and

(2) all Hedging Obligations (and guarantees thereof),

in each case whether outstanding on the Issue Date or thereafter incurred.

“Senior Interim Loans” means the “Initial Loans” under and as defined in the Senior Interim Loan Credit Agreement.

“Senior Interim Loan Credit Agreement” means that certain Senior Interim Loan Credit Agreement, dated as of the Acquisition Closing Date, by and among the Issuer and Citigroup Global Markets Inc., Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated as joint-lead arrangers and joint bookrunners, Citicorp North America, Inc., as administrative agent, Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as syndication agents, including any related notes, Guarantees, instruments and agreements executed in connection therewith, and, in each case, as amended, restated, modified, renewed, refunded, replaced (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.

“Shareholders Agreement” means the Shareholders Agreement among Parent and the shareholders of Parent, as in effect on the Acquisition Closing Date.

“Significant Subsidiary” means any Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Act, as such Regulation is in effect on the Issue Date.

“Sponsors” means one or more investments funds controlled by TC Group, L.L.C. or Onex Partners II L.P. and their respective Affiliates.

“Stated Maturity” means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the Issue Date, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

“Subordinated Indebtedness” means (a) with respect to the Issuer, any Indebtedness of the Issuer that is by its terms subordinated in right of payment to the Notes and (b) with respect to any Guarantor, any Indebtedness of such Guarantor that is by its terms subordinated in right of payment to its Note Guarantee.

“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 and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that 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 that Person or one or more Subsidiaries of that Person (or any combination thereof).

“Total Assets” means the total assets of the Issuer and its Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Issuer or such other Person as may be expressly stated.

“Transactions” means the Acquisition and the transactions related thereto, including borrowings made pursuant to the Credit Agreement and the Senior Interim Loan Credit Agreement.

“Treasury Rate” has the meaning set forth in Exhibit A hereto.

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

“Unrestricted Definitive Note” means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

“Unrestricted Global Note” means a permanent Global Note, substantially in the form of Exhibit A attached hereto, that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary, representing Notes that do not bear the Private Placement Legend.

“Unrestricted Subsidiary” means any Subsidiary of the Issuer that is designated by the Board of Directors of Parent as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors, but only to the extent that such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Debt;

(2) except as permitted by Section 4.11, is not party to any agreement, contract, arrangement or understanding with the Issuer or any Restricted Subsidiary of the Issuer unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Issuer or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Issuer;

(3) is a Person with respect to which neither the Issuer nor any Restricted Subsidiary has any direct or indirect obligation (a) to subscribe for additional Equity

Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Issuer or any Restricted Subsidiary.

"U.S. Person" means a U.S. person as defined in Rule 902(k) under the Securities Act.

"Voting Stock" of any specified 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 at any date, the number of years obtained by dividing:

(1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

(2) the then outstanding principal amount of such Indebtedness.

Section 1.02. Other Definitions.

<u>Term</u>	<u>Defined in Section</u>
“Acceptable Commitment”	4.10
“Affiliate Transaction”	4.11
“Asset Sale Offer”	4.10
“Authentication Order”	2.02
“Calculation Date”	1.01
“Change of Control Offer”	4.14
“Change of Control Payment”	4.14
“Change of Control Payment Date”	4.14
“Covenant Defeasance”	8.03
“DTC”	2.03
“Event of Default”	6.01
“Excess Proceeds”	4.10
“incur”	4.09
“Legal Defeasance”	8.02
“Offer Amount”	3.09
“Offer Period”	3.09
“Paying Agent”	2.03
“Permitted Debt”	4.09
“Purchase Date”	3.09
“Registrar”	2.03
“Restricted Payments”	4.07
“Second Commitment”	4.10
“Successor Company”	5.01
“Suspended Covenants”	4.19

Section 1.03. 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) words in the singular include the plural, and in the plural include the singular;
- (e) “will” shall be interpreted to express a command;
- (f) provisions apply to successive events and transactions;

(g) references to sections of, or rules under, the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(h) unless the context otherwise requires, any reference to an "Article," "Section" or "clause" refers to an Article, Section or clause, as the case may be, of this Indenture; and

(i) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not any particular Article, Section, clause or other subdivision.

#### Section 1.04. 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 Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Proof of execution of any such instrument or of a writing appointing any such agent, or the holding by any Person of a Note, shall be sufficient for any purpose of this Indenture and (subject to Section 7.01) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Section 1.04.

(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 the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the Person executing the same. 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 that the Trustee deems sufficient.

(c) The ownership of Notes shall be proved by the Register maintained by the Registrar.

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

(e) The Issuer may set a record date for purposes of determining the identity of Holders entitled to give any request, demand, authorization, direction, notice, consent, waiver or take any other act, or to vote or consent to any action by vote or consent authorized or permitted to be given or taken by Holders. Unless otherwise specified, if not set by the Issuer prior to the

first solicitation of a Holder made by any Person in respect of any such action, or in the case of any such vote, prior to such vote, any such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders furnished to the Trustee prior to such solicitation.

(f) Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Note may do so 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. Any notice given or action taken by a Holder or its agents with regard to different parts of such principal amount pursuant to this paragraph shall have the same effect as if given or taken by separate Holders of each such different part.

(g) Without limiting the generality of the foregoing, a Holder, including DTC that is the Holder of a Global Note, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders, and DTC that is the Holder of a Global Note may provide its proxy or proxies to the beneficial owners of interests in any such Global Note through such depository's standing instructions and customary practices.

(h) The Issuer may fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any Global Note held by DTC entitled under the procedures of such depository to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such Persons, shall be entitled to make, give or take such request, demand, authorization, direction, notice, consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction, notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 90 days after such record date.

## ARTICLE 2

### THE NOTES

#### Section 2.01. Form and Dating; Terms.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rules or usage. Each Note shall be dated the date of its authentication. The Notes shall be in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The amount of Notes which may be issued under this Indenture is unlimited.

(b) Global Notes. Notes issued in global form shall 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 shall 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). Each Global Note shall represent such of the outstanding Notes as shall be specified in the “Schedule of Exchanges of Interests in the Global Note” attached thereto and each shall provide that it shall represent up to the aggregate principal amount of 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 applicable, 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 the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) Temporary Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Temporary Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as custodian for the Depository, and registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear or Clearstream, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. Upon the termination of the Restricted Period and:

(i) receipt by the Issuer of a written certificate from the Depository, together with copies of certificates from Euroclear and Clearstream certifying that they have received certification of non-United States beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who shall take delivery of a beneficial ownership interest in a 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.06(b) hereof); and

(ii) following such receipt, delivery of an Officer’s Certificate to the Trustee;

beneficial interests in the Regulation S Temporary Global Note shall be exchanged for beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures. Simultaneously with the authentication of the Regulation S Permanent Global Note, the Trustee shall cancel the Regulation S Temporary Global Note. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(d) Terms. 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.

Additional Notes ranking *pari passu* with the Initial Notes may be created and issued from time to time by the Issuer without notice to or consent of the Holders and shall be consolidated with and form a single class with the Initial Notes and shall have the same terms as to status, redemption or otherwise as the Initial Notes; provided that the Issuer's ability to issue Additional Notes shall be subject to the Issuer's compliance with Section 4.09 hereof. Except as described under Article 9 hereof, the Notes offered by the Issuer and any Additional Notes subsequently issued under this Indenture will be treated as a single class for all purposes under this Indenture, including waivers, amendments, redemptions and offers to purchase. Unless the context requires otherwise, references to the "Notes" for all purposes of this Indenture include any Additional Notes that are actually issued. Any Additional Notes shall be issued with the benefit of an indenture supplemental to this Indenture.

Section 2.02. Execution and Authentication.

At least one Officer shall execute the Notes on behalf of the Issuer by manual or facsimile signature.

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

A Note shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated substantially in the form of Exhibit A attached hereto, as the case may be, by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been duly authenticated and delivered under this Indenture.

On the Issue Date, the Trustee shall, upon receipt of an Issuer Order (an "Authentication Order"), authenticate and deliver the Initial Notes. In addition, at any time, from time to time, the Trustee shall upon an Authentication Order authenticate and deliver any Additional Notes. Such Authentication Order shall specify the amount of the Notes to be authenticated and, in the case of any issuance of Additional Notes pursuant to Section 2.01 hereof, shall certify that such issuance is in compliance with Section 4.09 of this Indenture.

The Trustee may appoint an authenticating agent acceptable to the Issuer to authenticate Notes. 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 an Agent to deal with Holders or an Affiliate of the Issuer.

Section 2.03. Registrar and Paying Agent.

The Issuer shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where Notes may be presented for payment ("Paying Agent"). The Issuer may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Issuer may change any Paying Agent or Registrar without prior notice to any Holder. The Issuer shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Issuer fails

to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Issuer or any of its Subsidiaries may act as Paying Agent or Registrar.

The Issuer initially appoints The Depository Trust Company (“DTC”) to act as Depository with respect to the Global Notes.

The Issuer initially appoints the Trustee to act as the Paying Agent and Registrar for the Notes and to act as Custodian with respect to the Global Notes.

Section 2.04. Paying Agent to Hold Money in Trust.

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 assets held by the Paying Agent for the payment of principal, premium, if any, or interest on the Notes, and will 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. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Issuer or a Subsidiary) shall have no further liability for the money. If the Issuer or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Issuer, the Trustee shall serve as Paying Agent for the Notes.

Section 2.05. 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 all Holders. If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee at least two Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes.

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. Except as otherwise set forth in this Section 2.06, a Global Note may be transferred, in whole and not in part, only to another nominee of the Depository or to a successor Depository or a nominee of such successor Depository. A beneficial interest in a Global Note may not be exchanged for a Definitive Note unless (i) the Depository (x) notifies the Issuer that it is unwilling or unable to continue as Depository for such Global Note or (y) has ceased to be a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Issuer within 120 days, (ii) the Issuer in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; provided that in no event shall the Regulation S Temporary Global Note be exchanged by the Issuer for Definitive Notes prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) under the Securities Act or (iii) there shall have occurred and be continuing a Default with respect to the Notes. Upon the occurrence of any of the preceding events in (i), (ii) or (iii) above,

Definitive Notes delivered in exchange for any Global Note or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depository (in accordance with its customary procedures). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, 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 2.06(a); provided, however, that beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the 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 this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, 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 Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Temporary 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). Beneficial interests in any 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 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) hereof, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository 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 containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository 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 Depository 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 (1) above; provided that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S

Temporary Global Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any 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 2.06(b)(ii) hereof and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; or

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon the occurrence of any of the events in Section 2.06(a)(i) or (ii) hereof and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Issuer shall execute and the Trustee shall authenticate and mail to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall mail such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes. Notwithstanding Sections 2.06(c)(i)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) of the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such 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 Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(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, a certificate

substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(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, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the applicable Restricted Global Note, in the case of clause (B) above, the applicable 144A Global Note, and in the case of clause (C) above, the applicable Regulation S 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 2.06(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 2.06(e):

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(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 B hereto, including the certifications in item (2) thereof; or

(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 B hereto, including the certifications required by item (3) thereof, if applicable.

(f) [Intentionally Omitted].

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture:

(i) Private Placement Legend. Each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

“THIS NOTE (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”). THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT, AND ACCORDINGLY, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER, OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF, THE SECURITIES ACT, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER JURISDICTION AND IN ACCORDANCE WITH TRANSFER RESTRICTIONS CONTAINED IN THE INDENTURE UNDER WHICH THIS NOTE WAS ISSUED. THE HOLDER OF THE NOTE WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY A PROPOSED TRANSFEREE OF THE NOTICE OF THE RESALE RESTRICTIONS APPLICABLE TO THE NOTE. THIS SECURITY MAY NOT BE ACQUIRED OR HELD WITH THE ASSETS OF (I) AN “EMPLOYEE BENEFIT PLAN” (AS DEFINED IN THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”)) THAT IS SUBJECT TO ERISA, (II) A “PLAN” DESCRIBED IN SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”), (III) ANY ENTITY DEEMED TO HOLD “PLAN ASSETS” OF ANY OF THE FOREGOING BY REASON OF AN EMPLOYEE BENEFIT PLAN’S OR PLAN’S INVESTMENT IN SUCH ENTITY, OR (IV) A GOVERNMENTAL PLAN OR CHURCH PLAN SUBJECT TO APPLICABLE LAW THAT IS SUBSTANTIALLY SIMILAR TO THE FIDUCIARY RESPONSIBILITY OR PROHIBITED TRANSACTION PROVISIONS OF ERISA OR SECTION 4975 OF THE CODE (“SIMILAR LAW”), UNLESS THE ACQUISITION AND HOLDING OF THIS SECURITY BY THE PURCHASER OR TRANSFEREE, THROUGHOUT THE PERIOD THAT IT HOLDS THIS SECURITY, ARE EXEMPT FROM THE PROHIBITED TRANSACTION RESTRICTIONS UNDER ERISA AND SECTION 4975 OF THE CODE OR ANY PROVISIONS OF SIMILAR LAW, AS APPLICABLE, PURSUANT TO ONE OR MORE PROHIBITED TRANSACTION

STATUTORY OR ADMINISTRATIVE EXEMPTIONS. BY ITS ACQUISITION OR HOLDING OF THIS SECURITY, EACH PURCHASER AND TRANSFEREE WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT THE FOREGOING REQUIREMENTS HAVE BEEN SATISFIED.”

(ii) Global Note Legend. Each Global Note shall bear a 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 2.06(h) OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF 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. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”) TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

(iii) Regulation S Temporary Global Note Legend. The Regulation S Temporary Global Note shall bear a legend in substantially the following form:

“EXCEPT AS SET FORTH BELOW, BENEFICIAL OWNERSHIP INTERESTS IN THIS REGULATION S TEMPORARY GLOBAL NOTE WILL

NOT BE EXCHANGEABLE FOR INTERESTS IN THE REGULATION S PERMANENT GLOBAL NOTE OR ANY OTHER NOTE REPRESENTING AN INTEREST IN THE NOTES REPRESENTED HEREBY WHICH DO NOT CONTAIN A LEGEND CONTAINING RESTRICTIONS ON TRANSFER, UNTIL THE EXPIRATION OF THE "40-DAY DISTRIBUTION COMPLIANCE PERIOD" (WITHIN THE MEANING OF RULE 903(B)(2) OF REGULATION S UNDER THE SECURITIES ACT) AND THEN ONLY UPON CERTIFICATION IN FORM REASONABLY SATISFACTORY TO THE TRUSTEE THAT SUCH BENEFICIAL INTERESTS ARE OWNED EITHER BY NON-U.S. PERSONS OR U.S. PERSONS WHO PURCHASED SUCH INTERESTS IN A TRANSACTION THAT DID NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT. DURING SUCH 40-DAY DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL OWNERSHIP IN THIS REGULATION S TEMPORARY GLOBAL NOTE MAY ONLY BE SOLD, PLEDGED OR TRANSFERRED THROUGH EUROCLEAR SYSTEM OR CLEARSTREAM LUXEMBOURG, A SOCIETE ANONYME AND ONLY (1) TO THE COMPANY, (2) WITHIN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (3) OUTSIDE THE UNITED STATES IN A TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT OR (4) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF THE CASES (1) THROUGH (4) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND OTHER JURISDICTIONS. HOLDERS OF INTERESTS IN THIS REGULATION S TEMPORARY GLOBAL NOTE WILL NOTIFY ANY PURCHASER OF THIS NOTE OF THE RESALE RESTRICTIONS REFERRED TO ABOVE, IF THEN APPLICABLE.

BENEFICIAL INTERESTS IN THIS REGULATION S TEMPORARY GLOBAL NOTE MAY BE EXCHANGED FOR INTERESTS IN A RESTRICTED GLOBAL NOTE ONLY IF (1) SUCH EXCHANGE OCCURS IN CONNECTION WITH A TRANSFER OF THE NOTES IN COMPLIANCE WITH RULE 144A, AND (2) THE TRANSFEROR OF THE REGULATION S TEMPORARY GLOBAL NOTE FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT THE REGULATION S GLOBAL NOTE IS BEING TRANSFERRED (A) TO A PERSON WHO THE TRANSFEROR REASONABLY BELIEVES TO BE A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A, (B) TO A PERSON WHO IS PURCHASING FOR ITS OWN ACCOUNT OR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A AND (C) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

BENEFICIAL INTERESTS IN A GLOBAL TRANSFER RESTRICTED NOTE MAY BE TRANSFERRED TO A PERSON WHO TAKES DELIVERY IN THE FORM OF AN INTEREST IN THE REGULATION S GLOBAL NOTE, WHETHER BEFORE OR AFTER THE EXPIRATION OF THE 40-DAY DISTRIBUTION COMPLIANCE PERIOD, ONLY IF THE TRANSFEROR FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT IF SUCH TRANSFER IS BEING MADE IN ACCORDANCE WITH RULE 903 OR 904 OF REGULATION S OR RULE 144 (IF AVAILABLE) AND THAT, IF SUCH TRANSFER OCCURS PRIOR TO THE EXPIRATION OF THE 40-DAY DISTRIBUTION COMPLIANCE PERIOD, THE INTEREST TRANSFERRED WILL BE HELD IMMEDIATELY THEREAFTER THROUGH EUROCLEAR SYSTEM OR CLEARSTREAM LUXEMBOURG, A SOCIETE ANONYME.”

(h) Cancellation and/or Adjustment of Global Notes. 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 hereof. 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.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 hereof or at the Registrar’s request.

(ii) 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 or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.07, 2.10, 3.06, 3.09, 4.10, 4.14 and 9.05 hereof).

(iii) Neither the Registrar nor the Issuer shall be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Issuer shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a Record Date and the next succeeding Interest Payment Date.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

(vii) Upon surrender for registration of transfer of any Note at the office or agency of the Issuer designated pursuant to Section 4.02 hereof, the Issuer shall execute, and the Trustee shall authenticate and mail, in the name of the designated transferee or transferees, one or more replacement Notes of any authorized denomination or denominations of a like aggregate principal amount.

(viii) At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations of a like aggregate principal amount upon surrender of the Notes to be exchanged at such office or agency. Whenever any Global Notes or Definitive Notes are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and mail, the replacement Global Notes and Definitive Notes which the Holder making the exchange is entitled to in accordance with the provisions of Section 2.02 hereof.

(ix) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

(x) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depository Participants or beneficial owners of interests 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, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 2.07. Replacement Notes.

If any mutilated Note is surrendered to the Trustee, the Registrar or the Issuer and the Trustee receives evidence to its satisfaction of the ownership and destruction, loss or theft of any Note, the Issuer shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Issuer, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Issuer to protect the Issuer, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Issuer may charge for its expenses in replacing a Note.

Every replacement Note is a contractual 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.

Section 2.08. Outstanding Notes.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, 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 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a bona fide purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Issuer, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

Section 2.09. Treasury Notes.

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, or by any Affiliate of the Issuer, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned shall be so disregarded. Notes so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to deliver any such direction, waiver or consent with respect to the Notes and that the pledgee is not the Issuer or any obligor upon the Notes or any Affiliate of the Issuer or of such other obligor.

Section 2.10. Temporary Notes.

Until certificates representing Notes are ready for delivery, the Issuer may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Issuer considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Issuer shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes.

Holders and beneficial holders, as the case may be, of temporary Notes shall be entitled to all of the benefits accorded to Holders, or beneficial holders, respectively, of Notes under this Indenture.

Section 2.11. Cancellation.

The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee or, at the direction of the Trustee, the Registrar or the Paying Agent and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall dispose of such cancelled Notes in accordance with its customary procedures (subject to the record retention requirement of the Exchange Act). Certification of the cancellation of all cancelled Notes shall be delivered to the Issuer. The Issuer may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.12. Defaulted Interest.

If the Issuer defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest 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 hereof. The Issuer shall notify the Trustee in writing in the form of an Officer's Certificate of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.12. The Trustee 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. The Trustee shall promptly notify the Issuer of such special record date. 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, first-class postage prepaid, to each Holder a notice at his or her address as it appears in the register maintained by the Registrar that states the special record date, the related payment date and the amount of such interest to be paid.

Subject to the foregoing provisions of this Section 2.12 and for greater certainty, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in

lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

Section 2.13. CUSIP Numbers.

The Issuer in issuing the Notes may use CUSIP numbers (if then generally in use) and, if so, the Trustee shall use CUSIP numbers in notices of redemption as a convenience to Holders; provided, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer shall as promptly as practicable notify the Trustee of any change in the CUSIP numbers.

ARTICLE 3

REDEMPTION

Section 3.01. Notices to Trustee.

If the Issuer elects to redeem the Notes pursuant to Section 3.07 hereof, it shall furnish to the Trustee, at least 10 Business Days before notice of redemption is required to be mailed or caused to be mailed to Holders pursuant to Section 3.03 hereof but not more than 60 days before a redemption date, an Officer's Certificate complying with the applicable provisions of Section 12.04 setting forth (i) the paragraph or subparagraph of such Note and/or Section of this Indenture pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount of the Notes, as the case may be, to be redeemed, (iv) the redemption price and (v) the CUSIP number, if any. Any optional redemption referenced in such Officer's Certificate may be cancelled by the Issuer at any time prior to a notice of redemption being mailed to any Holder and, thereafter, shall be null and void.

Section 3.02. Selection of Notes to Be Redeemed or Purchased.

If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee shall select the Notes to be redeemed or purchased on a pro rata basis or, to the extent that selection on a pro rata basis is not practicable, by lot or by such other method as the Trustee reasonably considers fair and appropriate unless otherwise provided by law or applicable stock exchange requirements; *provided* that no partial redemption will reduce the principal amount of a Note not redeemed to be less than \$2,000.

The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption or purchase and, in the case of any Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Notes and portions of Notes selected shall be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; no Notes of \$2,000 or less can be redeemed in part, except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed or purchased. Except as provided in the preceding sentence,

provisions of this Indenture that apply to Notes called for redemption or purchase also apply to portions of Notes called for redemption or purchase.

Section 3.03. Notice of Redemption or Repurchase.

Subject to Section 3.09 hereof, the Issuer shall mail or cause to be mailed by first-class mail notices of redemption or repurchase at least 10 days but not more than 60 days before the redemption or repurchase date to each Holder of Notes to be redeemed or repurchased at such Holder's registered address, except that redemption or repurchase notices may be mailed more than 60 days prior to a redemption or repurchase date if the notice is issued in connection with Article 8 or Article 11 hereof. Notices of redemption may be conditional. Failure to give notice of redemption, or any defect therein to any Holder of any Note selected for redemption shall not impair or affect the validity of the redemption of any other Note.

The notice shall identify the Notes to be redeemed and shall state:

(a) the redemption or repurchase date;

(b) the redemption or repurchase price;

(c) if any Note is to be redeemed or repurchased in part only, the portion of the principal amount of that Note that is to be redeemed or repurchased and that, after the redemption or repurchase date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed unpurchased portion of the original Note representing the same indebtedness to the extent not redeemed or repurchased will be issued in the name of the Holder of the Notes (unless such unredeemed or unrepurchased portion is equal to or less than \$2,000 in principal amount) or transferred by book entry upon cancellation of the original Note;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption or repurchase must be surrendered to the Paying Agent to collect the redemption or repurchase price;

(f) that, unless the Issuer defaults in making such redemption payment, and interest on Notes called for redemption or repurchase ceases to accrue on and after the redemption or repurchase date;

(g) the paragraph or subparagraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption or repurchase are being redeemed or repurchased, as applicable;

(h) the CUSIP number, if any, and the statement that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes; and

(i) any condition to such redemption or repurchase.

At the Issuer's request, the Trustee shall give the notice of redemption in the Issuer's name and at its expense; provided that the Issuer shall have delivered to the Trustee, at least 10 Business Days before notice of redemption is required to be mailed or caused to be mailed to Holders pursuant to this Section 3.03 (unless a shorter notice shall be agreed to by the Trustee), an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Section 3.04. Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price (except as provided for in the applicable Note). The notice, if mailed in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the Holder of any Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Subject to Section 3.05 hereof, on and after the redemption date, interest ceases to accrue on Notes or portions of Notes called for redemption.

Section 3.05. Deposit of Redemption or Purchase Price.

Prior to 12:00 p.m. (New York City time) on the redemption or purchase date, the Issuer shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of and accrued and unpaid interest on all Notes (or a portion thereof) to be redeemed or purchased on that date. The Trustee or the Paying Agent shall promptly, and in any event within two Business Days after the redemption or repurchase date, return to the Issuer any money deposited with the Trustee or 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 or purchased.

If the Issuer complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption or purchase whether or not such Notes are presented for payment. If a Note is redeemed or purchased on or after a Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest to the redemption or purchase date 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 or purchase shall not be so paid upon surrender for redemption or purchase because of the failure of the Issuer to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest accrued to the redemption or purchase date not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

Section 3.06. Notes Redeemed or Purchased in Part.

Upon surrender and cancellation of a Note that is redeemed or purchased in part, the Issuer shall issue and the Trustee shall authenticate for the Holder at the expense of the Issuer

a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered representing the same indebtedness to the extent not redeemed or purchased; provided that each new Note will be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof.

Section 3.07. Optional Redemption.

The Issuer may redeem the Notes in accordance with the provisions of the Note, as set forth in Exhibit A hereto. Notwithstanding anything to the contrary contained herein or in the applicable Note, notice of any redemption upon any Equity Offering or other corporate transaction may be given prior to the completion thereof, 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, completion of the related Equity Offering or related corporate transaction.

Section 3.08. Mandatory Redemption.

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

Section 3.09. Offers to Repurchase by Application of Excess Proceeds.

(a) In the event that, pursuant to Section 4.10 hereof, the Issuer shall be required to commence an Asset Sale Offer, it shall follow the procedures specified below.

(b) The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Issuer shall apply all Excess Proceeds (the "Offer Amount") to the purchase of Notes and, if required, pari passu Indebtedness (on a pro rata basis, if applicable), or, if less than the Offer Amount has been tendered, all Notes and pari passu Indebtedness tendered in response to the Asset Sale Offer. Payment for any Notes so purchased shall be made in the same manner as interest payments are made.

(c) If the Purchase Date is on or after a Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest up to but excluding the Purchase Date, 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 Asset Sale Offer.

(d) Upon the commencement of an Asset Sale Offer, the Issuer shall send, by first-class mail, a notice to 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 Asset Sale Offer. The Asset Sale Offer shall be made to all Holders and holders of pari passu Indebtedness. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

(i) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale 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 accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest on and after the Purchase Date;

(v) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in denominations of \$2,000 or integral multiples of \$1,000 in excess thereof only;

(vi) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer shall be required to surrender such Note, with the form entitled "Option of Holder to Elect Purchase" attached to the Note completed, or transfer by book-entry transfer, to the Issuer, the Depository, if appointed by the Issuer, or a Paying Agent at the address specified in the notice at least three Business 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 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 principal amount of Notes and pari passu Indebtedness surrendered by the holders thereof exceeds the Offer Amount, the Trustee shall select the Notes and the applicable Person (but not the Trustee) shall select such pari passu Indebtedness to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or, for purposes of such applicable Person's selection (but not the Trustee), such pari passu Indebtedness tendered (with such adjustments as may be deemed appropriate by the Trustee, in the case of the Notes, and by the applicable Person (but not the Trustee), in the case of pari passu Indebtedness, 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 (to the extent that such unpurchased portion equals to \$2,000 in principal amount or an integral multiples of \$1,000 in excess thereof) portion of the Notes surrendered (or transferred by book-entry transfer) representing the same indebtedness to the extent not repurchased.

(e) On or before the Purchase Date, the Issuer shall, to the extent lawful, (1) accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof validly tendered and not withdrawn pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes promptly tendered and not withdrawn and (2) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof so tendered.

(f) The Issuer, the Depository or the Paying Agent, as the case may be, shall promptly mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes properly tendered and not withdrawn by such Holder and accepted by the Issuer for purchase, and the Issuer shall promptly issue a new Note, and the Trustee, upon receipt of an Authentication Order, shall authenticate and mail or deliver (or cause to be transferred by book-entry) such new Note to such Holder in a principal amount equal to any unpurchased portion of the Note surrendered representing the same indebtedness to the extent not repurchased; provided that each such new Note shall be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. Any Note not so accepted shall be promptly mailed or delivered by the Issuer to the Holder thereof. The Issuer shall publicly announce the results of the Asset Sale Offer on or as soon as practicable after the Purchase Date.

Other than as specifically provided in this Section 3.09 or Section 4.10 hereof, any purchase pursuant to this Section 3.09 shall be made pursuant to the applicable provisions of Sections 3.01 through 3.06 hereof.

#### ARTICLE 4

#### COVENANTS

##### Section 4.01. Payment of Notes.

The Issuer shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Issuer or a Subsidiary, holds as of 12:00 p.m. Eastern Time on the due date money deposited by the Issuer in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. Such Paying Agent shall return to the Issuer promptly, and in any event, no later than two Business Days following the date of payment, any money (including accrued interest, if any) that exceeds such amount of principal, premium, if any, and interest paid on the Notes. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

##### Section 4.02. Maintenance of Office or Agency.

The Issuer shall maintain the office required under Section 2.03 (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where the Notes may

be presented or 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.

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. 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.

The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer in accordance with Section 2.03 hereof.

#### Section 4.03. Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Issuer shall furnish to the Holders of Notes and the Trustee:

(i) within 45 days after the end of each of the first three fiscal quarters of each fiscal year (other than the first fiscal quarter following the Acquisition Closing Date which may be delivered within 90 days after the end of such quarter), in the case of quarterly financial information, and 90 days after the end of each fiscal year, in the case of annual financial information, and all quarterly and annual financial information that would be required to be filed with the SEC on Forms 10-Q and 10-K if the Issuer were required to file such reports, including "Management's Discussion and Analysis of Financial Condition and Results of Operations," and, with respect to the annual financial information only, a report on the annual financial statements by the Issuer's certified independent accountants; and

(ii) promptly from time to time after the occurrence of an event required to be therein reported, such other reports containing substantially the same information required to be contained in a Current Report on Form 8-K under the Exchange Act; provided, however, that no such report shall be required to be furnished if the Issuer determines in its good faith judgment that such event is not material to the Holders of the Notes or the business, assets, operations, financial positions or prospects of the Issuer and its Restricted Subsidiaries.

provided, however, that (a) such reports will not be required to comply with or contain any certifications or reports required by Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 and 308 of Regulation S-K promulgated by the SEC, or in each case any successor provisions, (b) such reports will not be required to contain the separate financial information for Guarantors or Subsidiaries whose securities are pledged to secure the Notes contemplated by Rule 3-10 or Rule 3-16 of Regulation S-K promulgated by the SEC (c) such

reports shall not be required to comply with Regulation G under the Exchange Act or Item 10(e) of Regulation S-K promulgated by the SEC with respect to any non-GAAP financial measures contained therein, (d) to the extent pro forma financial information regarding the Transactions is required to be provided by the Issuer, the Issuer may provide only pro forma revenues, senior secured debt, total debt and capital expenditures in lieu thereof, and (e) such reports shall not be required to present compensation or beneficial ownership information.

(b) The Issuer shall (1) distribute such reports and information electronically to the Trustee and (2) make available such reports and information to any Holder of Notes, any prospective investor, any security analyst or any market maker by posting such reports and information on Intralinks or any comparable password protected online data system, which will require a confidentiality acknowledgement; provided that the Issuer shall make readily available any password or other login information to any such Holder of Notes, prospective investor, security analyst or market maker. The Issuer shall use its commercially reasonable efforts, consistent with its judgment as to what is prudent at the time, to participate in quarterly conference calls to discuss operating results and related matters. The Issuer shall issue a press release, which will provide the date and time of any such call and will direct Holders of Notes, prospective investors and securities analysts to contact the investor relations office of the Issuer to obtain access to the conference call.

(c) If the Issuer has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by this Section 4.03 shall include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in "Management's Discussion and Analysis of Financial Condition and Results of Operations," of the financial condition and results of operations of the Issuer and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Issuer.

(d) In the event that any direct or indirect parent company of the Issuer is or becomes a Guarantor of the Notes, this Indenture will permit the Issuer to satisfy its obligations in this Section 4.03 with respect to financial information relating to the Issuer by furnishing financial information relating to such direct or indirect parent company; provided, however, that the same is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such direct or indirect parent company 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.

#### Section 4.04. Compliance Certificate.

(a) The Issuer and each Guarantor (to the extent that such Guarantor would be so required under the Trust Indenture Act if this Indenture were qualified thereunder) shall deliver to the Trustee, within 90 days after the end of each fiscal year of the Issuer ending after the date of this Indenture, a certificate from the principal executive officer, principal financial officer or principal accounting officer stating that, as to such Officer signing such certificate, that to the best of his or her knowledge the Issuer has performed each and every covenant contained in this Indenture that is applicable to it in all material respects and is not in default in the performance

or observance of any of the terms, provisions, covenants and conditions of this Indenture (or, if a Default shall have occurred, describing all such Defaults of which he or she may have knowledge and what action the Issuer is taking or proposes to take with respect thereto).

(b) When any Default has occurred and is continuing under this Indenture, or if the Trustee or the holder of any other evidence of Indebtedness of the Issuer or any Subsidiary gives any notice or takes any other action with respect to a claimed Default, the Issuer shall promptly (which shall be no more than ten (10) Business Days) deliver to the Trustee by registered or certified mail or by facsimile transmission an Officer's Certificate specifying such event and what action the Issuer proposes to take with respect thereto.

Section 4.05. Taxes.

The Issuer shall pay, and shall cause each of its Restricted Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate negotiations or proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

Section 4.06. Stay, Extension and Usury Laws.

The Issuer and each of the Guarantors covenant (to the extent that they may lawfully do so) that they 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 of the Guarantors (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law, and covenant that they 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 4.07. Restricted Payments.

(a) The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly:

(i) declare or pay any dividend or make any other distribution on account of the Issuer's Equity Interests or the Equity Interests of any of the Issuer's Restricted Subsidiaries (including any dividend or distribution payable in connection with any merger or consolidation involving the Issuer) other than dividends or distributions payable in Equity Interests (other than Disqualified Stock);

(ii) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Issuer) any Equity Interests of the Issuer or any of its Restricted Subsidiaries or any direct or indirect parent of the Issuer (but excluding any such Equity Interests held by the Issuer or a Restricted Subsidiary);

(iii) make any principal payment on, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee in each case prior to any scheduled repayment sinking fund payment, principal installment or Stated Maturity thereof (other than (x) Indebtedness permitted under clauses (vi) and (vii) of the definition of "Permitted Debt" or (y) the purchase, repurchase or other acquisition or retirement of Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of the purchase, repurchase, acquisition or retirement); or

(iv) make any Restricted Investment

(all such payments and other actions set forth 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 of such Restricted Payment;

(2) the Issuer would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a); and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer and its Restricted Subsidiaries since the Acquisition Closing Date (excluding Restricted Payments permitted by clauses (ii) through (vi), (viii) and (x) through (xvii) of Section 4.07(b)) is less than the sum, without duplication, of:

(i) 50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) from the beginning of the fiscal quarter after the fiscal quarter in which the Acquisition Closing Date occurs to the end 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

(ii) 100% of the aggregate net cash proceeds and the Fair Market Value of property, assets or marketable securities received by the Issuer since the Acquisition Closing Date as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Issuer (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Issuer that have been converted into or exchanged for such Equity Interests (in each case other than (A) Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Issuer or to an employee stock ownership plan or other trust established by the

Issuer or any Restricted Subsidiary, (B) Designated Preferred Stock, (C) Equity Interests sold to members of management or directors of the Issuer or any Restricted Subsidiary or Parent after the Acquisition Closing Date to the extent such amounts have been applied to Restricted Payments made in accordance with clause (iv) of the next succeeding paragraph, (D) Excluded Contributions and (E) contributions to the extent such contributions have been used to Incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to Section 4.09(b)(xxi); plus

(iii) with respect to Restricted Investments made by the Issuer or its Restricted Subsidiaries after the Acquisition Closing Date, an amount equal to the greatest of (A) the net reduction in such Restricted Investments in any Person resulting from repayments of loans or advances, or other transfers of assets, in each case to the Issuer or any Restricted Subsidiary, (B) the net cash proceeds received by the Issuer or any of its Restricted Subsidiaries from the sale of any such Restricted Investment or the receipt by the Issuer or any of its Restricted Subsidiaries of any dividends or distributions from such Restricted Investment, or (C) the net reduction in such Restricted Investment resulting from the release of any guarantee (except to the extent any amounts are paid under such guarantee) or from redesignations of Unrestricted Subsidiaries as Restricted Subsidiaries.

(b) The preceding provisions will not prohibit:

(i) the payment of any dividend or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or giving of the redemption notice, as the case may be, if at the date of declaration of such payment or notice the dividend or redemption payment would have complied with the provisions of this Indenture;

(ii) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Issuer) of, Equity Interests of the Issuer (other than Disqualified Stock or Designated Preferred Stock and other than the sale of Equity Interests designated as an Excluded Contribution) or from the substantially concurrent contribution of common equity capital to the Issuer; provided that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from clause (3)(ii) of Section 4.07(a);

(iii) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;

(iv) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary of the Issuer payable to the Issuer or to a Restricted Subsidiary and pro rata dividends or distributions payable to minority holders of Equity Interests of any Restricted Subsidiary who are not Affiliates other than the Issuer or a Restricted Subsidiary;

(v) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Issuer or any Restricted Subsidiary of the Issuer held by any future, current or former officer, director or employee of the Issuer or any Restricted Subsidiary pursuant to any equity subscription agreement, stock option agreement, shareholders' agreement or similar agreement or payments to Parent in amounts equal to amounts expended by Parent to repurchase, redeem or otherwise acquire or retire for value any Equity Interests of Parent held by any future, current or former officer, director or employee of Parent, the Issuer or any of its Subsidiaries (or their permitted transferees) pursuant to any equity subscription agreement, stock option agreement, shareholders' agreement or similar agreement; provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$20.0 million in any twelve-month period (which shall increase to \$30.0 million subsequent to the consummation of any underwritten public Equity Offering by the Issuer or any direct or indirect parent entity of the Issuer) (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of \$40.0 million in any calendar year (which shall increase to \$60.0 million subsequent to the consummation of an underwritten public Equity Offering by the Issuer or any direct or indirect parent corporation of the Issuer); and provided, further that such amount in any twelve-month period may be increased by an amount equal to (x) the cash proceeds received by the Issuer or any Restricted Subsidiary from the sale of Equity Interests of the Issuer (other than Disqualified Stock) or of the Parent (to the extent contributed to the Issuer) to members of management or directors of the Issuer or any Restricted Subsidiary or Parent; plus (y) the cash proceeds of key man life insurance policies received by the Issuer or Parent (to the extent contributed to the Issuer) or any Restricted Subsidiary; minus (z) the amount of any Restricted Payments previously made with the cash proceeds described in clauses (x) and (y) of this clause (v); and provided further that that cancellation of Indebtedness owing to the Issuer or any Restricted Subsidiary from any officer, director or employee of the Issuer, Parent or any Restricted Subsidiary in connection with a repurchase of Equity Interests of the Issuer, Parent or any Restricted Subsidiary will not be deemed to constitute a Restricted Payment for purposes of this Section 4.07 or any other provision of this Indenture;

(vi) the repurchase of Equity Interests deemed to occur upon the exercise of stock options or warrants to the extent such Equity Interests represent a portion of the exercise price of those stock options or warrants;

(vii) the payment of dividends on the Issuer's common stock (or the payment of dividends to Parent to fund the payment by Parent of dividends on its common stock) following any public offering of common stock of Parent or the Issuer, as the case may be, after the Acquisition Closing Date, of up to 6.0% per annum of the net proceeds received by the Issuer (or by Parent and contributed to the Issuer) from such public offering other than any public offering constituting an Excluded Contribution; provided, however, that the aggregate amount of all such dividends shall not exceed the aggregate amount of net proceeds received by the Issuer (or by Parent and contributed to the Issuer) from such public offering;

(viii) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Issuer or any Restricted Subsidiary of the Issuer issued after the Acquisition Closing Date in accordance with Section 4.09;

(ix) the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock issued by the Issuer after the Acquisition Closing Date and the declaration and payment of dividends to a direct or indirect parent of the Issuer, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock of such parent issued after the Acquisition Closing Date; provided that (1) for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of issuance of such Designated Preferred Stock, after giving effect to such issuance and declaration on a pro forma basis, the Issuer would have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a) and (2) the aggregate amount of dividends declared and paid pursuant to this clause (ix) shall not exceed the aggregate amount of cash actually received by the Issuer from the sale of such Designated Preferred Stock issued after the Acquisition Closing Date;

(x) upon the occurrence of a Change of Control and within 60 days after completion of the offer to repurchase Notes pursuant to Section 4.14 (including the purchase of all Notes tendered), any purchase or redemption of Subordinated Indebtedness of the Issuer 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);

(xi) within 60 days after completion of any offer to repurchase Notes pursuant to Section 4.10 (including the purchase of all Notes tendered), any purchase or redemption of Subordinated Indebtedness of the Issuer 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);

(xii) Investments in Unrestricted Subsidiaries having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (xii) that are at that time outstanding, not to exceed \$75.0 million (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(xiii) the distribution, as a dividend or otherwise of shares of Capital Stock of, or Indebtedness owed to the Issuer or any Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries the primary assets of which are cash and/or Cash Equivalents);

(xiv) cash dividends or other distributions on the Issuer's Capital Stock used to, or the making of loans to any direct or indirect parent of the Issuer to, fund the payment

of fees and expenses incurred in connection with, or other payments contemplated by, the Transactions or as contemplated by the Acquisition Documents or owed by the Issuer or Parent, as the case may be, or Restricted Subsidiaries to Affiliates;

(xv) Investments that are made with Excluded Contributions;

(xvi) payments to the Sponsors and any of their Affiliates (a) pursuant to the Management Agreement or any amendment thereto (so long as such amendment is not less advantageous to the Holders of the Notes in any material respect than the Management Agreement) or (b) for any other financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or divestitures, which payments, in the case of this clause (b), are approved by a majority of the disinterested members of the Board of Directors of Parent in good faith;

(xvii) Permitted Payments to Parent; and

(xviii) other Restricted Payments in an aggregate amount not to exceed the greater of \$125.0 million and 2.00% of Total Assets;

provided, however, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (v), (vii), (xii) and (xviii), no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof.

(c) The amount of all Restricted Payments (other than cash and Cash Equivalents) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by Parent, the Issuer or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

#### Section 4.08. Dividend and Other Payment Restrictions Affecting Subsidiaries.

(a) The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(i) pay dividends or make any other distributions on its Capital Stock to the Issuer or any Restricted Subsidiary, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to the Issuer or any Restricted Subsidiary;

(ii) make loans or advances to the Issuer or any Restricted Subsidiary; or

(iii) sell, lease or transfer any of its properties or assets to the Issuer or any Restricted Subsidiary.

(b) The preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(i) agreements governing Existing Indebtedness and Credit Facilities as in effect on the Issue Date and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; provided that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the Issue Date;

(ii) this Indenture, the Notes and the Note Guarantees;

(iii) applicable law, rule, regulation or order;

(iv) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Issuer or any Restricted Subsidiary as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; provided that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;

(v) customary provisions (including non-assignment provisions) contained in leases, subleases, licenses or asset sale agreements and other agreements entered into in the ordinary course of business;

(vi) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (a)(iii) of this Section 4.08;

(vii) any agreement for the sale or other disposition of a Restricted Subsidiary (including a sale of its Capital Stock or its assets) that restricts distributions by that Restricted Subsidiary pending the sale or other disposition;

(viii) Permitted Refinancing Indebtedness; provided that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(ix) Liens permitted to be incurred under the provisions of Section 4.12 that limit the right of the debtor to dispose of the assets subject to such Liens;

(x) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements entered into with the approval of the Issuer's Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements;

(xi) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(xii) any other agreement governing Indebtedness entered into after the Issue Date that contains encumbrances and restrictions that, taken as a whole, are not materially more restrictive with respect to any Restricted Subsidiary than those in effect on the Issue Date with respect to that Restricted Subsidiary pursuant to agreements in effect on the Issue Date (including this Indenture, the Credit Agreement and the Senior Interim Loan Credit Agreement);

(xiii) Indebtedness of any Foreign Subsidiary permitted to be incurred under Section 4.09(b)(xxii); and

(xiv) any encumbrances or restrictions of the type referred to in clauses (a)(i), (a)(ii) and (a)(iii) of this Section 4.08 imposed by any 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, however, that the encumbrances or restrictions imposed by such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of Parent's Board of Directors, not materially less favorable to the Holders of the Notes than encumbrances and restrictions contained in such predecessor agreements.

Section 4.09. Incurrence of Indebtedness and Issuance of Preferred Stock.

(a) The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and the Issuer will not issue any Disqualified Stock and will not permit any Restricted Subsidiary to issue any shares of Disqualified Stock or any shares of Preferred Stock; provided, however, that the Issuer and any Restricted Subsidiary may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock or Preferred Stock, if the Fixed Charge Coverage Ratio as of the date on which such additional Indebtedness is incurred or such Disqualified Stock or such Preferred Stock is issued, as the case may be, 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 the Preferred Stock had been issued, as the case may be, at the beginning of such four-quarter period.

(b) The provisions of Section 4.09(a) hereof shall not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

(i) the incurrence by the Issuer and its Restricted Subsidiaries of Indebtedness and letters of credit under Credit Facilities, excluding the Senior Interim Loan Credit Agreement, in an aggregate principal amount at any one time outstanding under this clause (i) (with letters of credit being deemed to have a principal amount equal to the face amount thereof) not to exceed \$3,900.0 million, less the aggregate amount of all Net

Proceeds of Asset Sales applied by the Issuer or any Restricted Subsidiary since the Acquisition Closing Date to repay any term Indebtedness under a Credit Facility or to repay any revolving credit Indebtedness under a Credit Facility and effect a corresponding commitment reduction thereunder pursuant to Section 4.10;

(ii) the incurrence by the Issuer and its Restricted Subsidiaries of Existing Indebtedness;

(iii) (a) the incurrence by the Issuer and the Guarantors of Indebtedness represented by the Notes and the related Note Guarantees, and  
(b) Indebtedness under the Senior Interim Loan Credit Agreement in an amount not to exceed \$1,100 million less the aggregate principal amount of the Notes plus any additional Loans issued as PIK Interest and any Exchange Notes issued in exchange for any Loans and any additional Exchange Notes issued as PIK Interest thereon;

(iv) Indebtedness (including Capital Lease Obligations), Disqualified Stock and Preferred Stock incurred by the Issuer or any of its Restricted Subsidiaries, to finance the purchase, lease or improvement of property (real or personal) or equipment that is used or useful in a Permitted Business, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets, in an aggregate principal amount, together with any Permitted Refinancing Indebtedness in respect thereof and all other Indebtedness, Disqualified Stock and/or Preferred Stock issued and outstanding under this clause (iv) not to exceed \$125.0 million at any time outstanding; so long as such Indebtedness exists at the date of such purchase, lease or improvement, or is created within 270 days thereafter;

(v) the incurrence by the Issuer or any Restricted Subsidiary of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge any Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under Section 4.09(a) hereof or clauses (ii), (iii), (iv), (v), (xiii), (xv), (xxi), (xxii) and (xxiii) of this Section 4.09(b) including additional Indebtedness incurred to pay premiums and fees in connection therewith;

(vi) the incurrence by the Issuer or any Restricted Subsidiary of intercompany Indebtedness between or among the Issuer and any Restricted Subsidiary; provided, however, that:

(1) if the Issuer or any Guarantor is the obligor on such Indebtedness and the payee is not the Issuer or a Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the Notes and the Note Guarantees; and

(2) any (A) subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Issuer or a Restricted Subsidiary of the Issuer, or (B) sale or other transfer of any such

Indebtedness to a Person that is not either the Issuer or a Restricted Subsidiary of the Issuer, will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Issuer or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (vi);

(vii) the issuance by any of the Issuer's Restricted Subsidiaries to the Issuer or to any Restricted Subsidiary of shares of Preferred Stock; provided, however, that any (1) subsequent issuance or transfer of Equity Interests that results in any such Preferred Stock being held by a Person other than the Issuer or a Restricted Subsidiary of the Issuer, or (2) sale or other transfer of any such Preferred Stock to a Person that is not either the Issuer or a Restricted Subsidiary of the Issuer, will be deemed, in each case, to constitute an issuance of such Preferred Stock by such Restricted Subsidiary that was not permitted by this clause (vii);

(viii) the incurrence by the Issuer or any Restricted Subsidiary of Hedging Obligations in the ordinary course of business and not for speculative purposes;

(ix) (1) the guarantee by the Issuer or any of the Guarantors of Indebtedness of the Issuer or a Restricted Subsidiary of the Issuer that was permitted to be incurred by another provision of this Section 4.09; provided that if the Indebtedness being guaranteed is subordinated to or pari passu with the Notes, then the Guarantee shall be subordinated or pari passu, as applicable, to the same extent as the Indebtedness guaranteed and (2) any guarantee by a Restricted Subsidiary that is not a Guarantor of Indebtedness of another Restricted Subsidiary that is not a Guarantor that was permitted to be incurred by another provision of this Section 4.09;

(x) Indebtedness incurred by the Issuer or any Restricted Subsidiary constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including letters of credit in respect of workers' compensation claims, health, disability or other employee benefits, or property, casualty or liability 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 or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(xi) the incurrence by the Issuer or any Restricted Subsidiary of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five business days;

(xii) receivables or factoring arrangements in the ordinary course of business;

(xiii) Indebtedness arising from agreements of the Issuer or a Restricted Subsidiary providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by

any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition; provided, however, that

(1) such Indebtedness is not reflected on the balance sheet of the Issuer or any Restricted Subsidiary prepared in accordance with GAAP (contingent obligations referred to in a footnote to financial statements and not otherwise reflected on the balance sheet will not be deemed to be reflected on such balance sheet for purposes of this clause (xiii)(1)) and

(2) the maximum assumable liability in respect of all such Indebtedness shall at no time exceed the gross proceeds including noncash proceeds (the fair market value of such noncash proceeds being measured at the time received and without giving effect to any subsequent changes in value) actually received by the Issuer and the Restricted Subsidiaries in connection with such disposition;

(xiv) Indebtedness of the Issuer or any Restricted Subsidiary consisting of (1) the financing of insurance premiums or (2) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(xv) Indebtedness, Disqualified Stock or Preferred Stock of (1) the Issuer or a Restricted Subsidiary incurred to finance an acquisition or (2) Persons that are acquired by the Issuer or any Restricted Subsidiary or merged into the Issuer or a Restricted Subsidiary in accordance with the terms of this Indenture; provided that, in the case of this clause (xv)(2) such Indebtedness, Disqualified Stock or preferred stock is not incurred in contemplation of such acquisition or merger; provided further that after giving effect to such acquisition or merger, either

(A) the Issuer would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a) or

(B) the Fixed Charge Coverage Ratio of the Issuer and its Restricted Subsidiaries is equal to or greater than immediately prior to such acquisition or merger;

(xvi) [intentionally omitted];

(xvii) obligations in respect of performance, bid, appeal and surety bonds and completion guarantees provided by the Issuer or any Restricted Subsidiary in the ordinary course of business;

(xviii) Indebtedness consisting of Indebtedness issued by the Issuer or any Restricted Subsidiary to future, current or former officers, directors and employees thereof, their respective estates, spouses or former spouses, in each case 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 described in Section 4.07(b)(iv);

(xix) customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business;

(xx) Indebtedness incurred by a Restricted Subsidiary in connection with bankers' acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case incurred or undertaken in the ordinary course of business on arm's length commercial terms on a recourse basis;

(xxi) Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary (including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (xxi)) equal to 200% of the net cash proceeds received by the Issuer since immediately after the Acquisition Closing Date from the issue or sale of Equity Interests of the Issuer or cash contributed to the capital of the Issuer (in each case, other than proceeds of Disqualified Stock or sales of Equity Interests to the Issuer or any of its Subsidiaries) to the extent such net cash proceeds or cash have not been applied pursuant to Section 4.07(a)(3)(ii) to make Restricted Payments or to make other Investments, payments or exchanges pursuant to Section 4.07(b) or to make Permitted Investments (other than Permitted Investments specified in clauses (1) and (3) of the definition thereof);

(xxii) the incurrence by Foreign Subsidiaries of Indebtedness in an aggregate principal amount at any time outstanding pursuant to this clause (xxii), including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (xxii), not to exceed \$125.0 million (or the equivalent thereof, measured at the time of each incurrence, in applicable foreign currency); and

(xxiii) Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred pursuant to this clause (xxiii), including any Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (xxiii), does not at any one time outstanding exceed \$150.0 million.

For purposes of determining compliance with this Section 4.09, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (i) through (xxiii) above, or is entitled to be incurred pursuant to Section 4.09(a), the Issuer will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.09. Indebtedness under Credit Facilities outstanding on the Issue Date will initially be deemed to have been incurred on such date in reliance on the exception provided by clause (1) of the definition of "Permitted Debt". The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of

Preferred Stock as Indebtedness due to a change in accounting principles, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 4.09. Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Issuer or any Restricted Subsidiary may incur pursuant to this Section 4.09 shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; and
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness.

Section 4.10. Asset Sales.

(a) The Issuer shall not, and shall not permit any Restricted Subsidiary to, consummate an Asset Sale unless:

(i) the Issuer (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of; and

(ii) except in the case of a Permitted Asset Swap, at least 75% of the consideration received in the Asset Sale by the Issuer or such Restricted Subsidiary is in the form of cash or Cash Equivalents.

For purposes of this Section 4.10, each of the following shall be deemed to be cash:

(1) any liabilities of the Issuer or any Restricted Subsidiary (as shown on the Issuer's or of such Restricted Subsidiary's most recent balance sheet or in the notes thereto or, if incurred or increased subsequent to the date of such balance sheet, such liabilities that would have been shown on the Issuer's balance sheet if such incurrence or increase had taken place on the date of such balance sheet, as determined by the Issuer) that are not by their terms subordinated to the Notes or the Note Guarantees that are assumed by the transferee of any such assets pursuant to a customary assumption or novation agreement that releases the Issuer or such Restricted Subsidiary from further liability;

(2) any securities, notes or other obligations received by the Issuer or any such Restricted Subsidiary from such transferee convertible into Cash Equivalents by the Issuer or such Restricted Subsidiary within 180 days of the closing of the Asset Sale, to the extent of the Cash Equivalents received in such conversion;

(3) any Capital Stock, properties or assets of the kind referred to in clauses (b)(iv) or (b)(v) of this Section 4.10; and

(4) 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 (d) that is at that time outstanding, not to exceed 2.0% 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.

(b) Within 450 days after the receipt of any Net Proceeds from an Asset Sale, the Issuer (or the applicable Restricted Subsidiary, as the case may be) may apply such Net Proceeds:

(i) to reduce (x) Indebtedness and letters of credit under Credit Facilities, and if the Indebtedness so reduced is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto or (y) other Obligations under Indebtedness that rank pari passu with the Notes (provided, however, that if the Issuer shall so reduce Indebtedness that ranks pari passu with the Notes, it will offer to equally and ratably reduce Obligations under the Notes by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer (as defined below)) to all Holders of Notes to purchase at a purchase price equal to 100% of the principal amount thereof, plus accrued and unpaid interest on the pro rata principal amount of Notes);

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

(iii) to repay obligations under Senior Debt that is secured by a Lien, which Lien is permitted by Section 4.12 hereof, and to correspondingly reduce commitments with respect thereto;

(iv) to acquire Capital Stock of any business to the extent that such business is a Permitted Business, if, after giving effect to any such acquisition of Capital Stock, the Permitted Business is or becomes a Restricted Subsidiary of the Issuer;

(v) to acquire properties or assets to the extent that such properties or assets are used or useful in a Permitted Business or replace properties or assets that were the subject of such Asset Sale; or

(vi) to make a capital expenditure that is used or useful in a Permitted Business.

Pending the final application of any Net Proceeds, the Issuer (or the applicable Restricted Subsidiary, as the case may be) may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by this Indenture.

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the second paragraph of this Section 4.10(b) will constitute “Excess Proceeds”; provided that a binding commitment to apply such Net Proceeds in accordance with the requirements of clause (iv), (v) or (vi) of the immediately preceding paragraph shall be treated as a permitted application of the Net Proceeds from the date of such commitment so long as the Issuer, or such other Restricted Subsidiary enters into such commitment with the good faith expectation that such Net Proceeds will be applied to satisfy such commitment within 180 days of such commitment (an “Acceptable Commitment”) and, in the event any Acceptable Commitment is later cancelled or terminated for any reason before the Net Proceeds are applied in connection therewith, the Issuer or such Restricted Subsidiary enters into another Acceptable Commitment (a “Second Commitment”) within 180 days of such cancellation or termination; provided, further, that if any Second Commitment is later cancelled or terminated for any reason before such Net Proceeds are applied, then such Net Proceeds shall constitute Excess Proceeds.

When the aggregate amount of Excess Proceeds exceeds \$50.0 million, the Issuer will make an offer (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 or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount plus accrued and unpaid interest to the date of purchase, and will be payable in cash.

If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Issuer may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and other pari passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select the Notes and the applicable person (but not the Trustee) will select such other pari passu Indebtedness to be purchased on a pro rata basis so that only Notes in denominations of \$2,000 or integral multiples of \$1,000 in excess thereof, shall be purchased. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

(c) 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 those laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with this Section 4.10, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations of this Section 4.10 by virtue of such compliance.

#### Section 4.11. Transactions with Affiliates.

(a) The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, 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, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Issuer (each an “Affiliate Transaction”) involving aggregate consideration in excess of \$20.0 million, unless:

(i) the Affiliate Transaction is on terms that are no less favorable to the Issuer or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with an unrelated Person; and

(ii) the Issuer delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$50.0 million, a majority of the disinterested members of the Board of Directors of Parent have determined in good faith that the criteria set forth in the immediately preceding clause (i) are satisfied and have approved the relevant Affiliate Transaction as evidenced by a resolution of the Board of Directors of the Issuer; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$150.0 million, a written opinion as to the fairness of such Affiliate Transaction to the Issuer or the relevant Restricted Subsidiary from a financial point of view by an accounting, appraisal or investment banking firm of national standing.

(b) The following items shall not be deemed to be Affiliate Transactions and, therefore, shall not be subject to the provisions of Section 4.11(a):

(i) any employment agreement, fee arrangement, employee benefit plan, indemnification agreement or any similar arrangement entered into by the Issuer or any Restricted Subsidiary with officers, directors or employees of the Issuer, any of its direct or indirect parent entities, or any Restricted Subsidiary in the ordinary course of business and payments pursuant thereto;

(ii) transactions between or among the Issuer and/or its Restricted Subsidiaries;

(iii) Restricted Payments that do not violate the provisions of this Indenture described in Section 4.07 and Permitted Investments permitted by this Indenture;

(iv) payments made by the Issuer or any Restricted Subsidiary to the Sponsors and any of their Affiliates (1) pursuant to the Management Agreement or any amendment thereto (so long as such amendment is not less advantageous to the Holders of the Notes in any material respect than the Management Agreement) or (2) for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or divestitures, which payments, in the case of this clause (2), are approved by a majority of the Board of Directors of Parent in good faith;

(v) payments, loans (or cancellations of loans) or advances to employees of the Issuer or any of its direct or indirect parent entities or any Restricted Subsidiary that

are approved by the Board of Directors of the Issuer and which are otherwise permitted under this Indenture;

(vi) the existence of, or payments made or performance under any agreement as in effect on the Issue Date (including without limitation the Shareholders Agreement and any registration rights agreement or purchase agreements related thereto) or any amendment thereto (so long as any such amendment is not less advantageous to the Holders of the Notes in any material respect than the original agreement as in effect on the Issue Date),

(vii) the Transactions and the payment of all transaction, underwriting, commitment and other fees and expenses incurred in connection with the Transactions;

(viii) 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 that are fair to the Issuer or its Restricted Subsidiaries, in the reasonable determination of the members of the Board of Directors of the Issuer or the senior management thereof, or are on terms at least as favorable as would reasonably have been entered into at such time with an unaffiliated party;

(ix) the issuance of Equity Interests (other than Disqualified Stock) of the Issuer to any Person;

(x) the issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock option and stock ownership plans or similar employee benefit plans approved by the Board of Directors of the Issuer or any direct or indirect parent company of the Issuer or a Restricted Subsidiary of the Issuer, as appropriate, in good faith;

(xi) any contribution to the capital of the Issuer;

(xii) transactions between the Issuer or any Restricted Subsidiary and any Person, a director of which is also a director of the Issuer or any direct or indirect parent company of the Issuer and such director is the sole cause for such Person to be deemed an Affiliate of the Issuer or any Restricted Subsidiary; provided, however, 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) pledges of Equity Interests of Unrestricted Subsidiaries;

(xiv) investments by any of the Sponsors in securities of the Issuer or any Restricted Subsidiary (and payment of reasonable out-of-pocket expenses incurred by such Sponsors in connection therewith);

(xv) transactions with AxelTech International in the ordinary course of business;

(xvi) transactions with a Person (other than an Unrestricted Subsidiary of the Issuer) that is an Affiliate of the Issuer solely because the Issuer owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person; and

(xvii) Permitted Parent Payments to Parent.

Section 4.12. Liens.

The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, assume or suffer to exist any Lien that secures obligations under any Indebtedness ranking pari passu with or subordinated to the Notes or a Note Guarantee on any asset or property of the Issuer or any Restricted Subsidiary, or any income or profits therefrom, or assign or convey any right to receive income therefrom, unless:

(i) such Lien is a Permitted Lien;

(ii) in the case of Liens securing Indebtedness subordinated to the Notes or the Note Guarantees, the Notes and any Note Guarantees are secured by a Lien on such property, assets or proceeds that is senior in priority to such Liens; or

(iii) in all other cases, the Notes and any Note Guarantees are equally and ratably secured.

provided that any Lien granted to secure the Notes and Note Guarantees under this Section 4.12 shall be discharged at the same time as the discharge of the Lien that gave rise to the obligation to so secure the Notes.

Section 4.13. Corporate Existence.

Subject to Article 5 hereof, the Issuer shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its corporate existence, and the corporate, partnership or other existence of each of its Restricted Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Issuer or any such Restricted Subsidiary and (ii) the material rights (charter and statutory), licenses and franchises of the Issuer and its Restricted Subsidiaries; provided that the Issuer shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Restricted Subsidiaries, if the Issuer in good faith shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Issuer and its Restricted Subsidiaries, taken as a whole.

Section 4.14. Offer to Repurchase upon Change of Control.

(a) Upon the occurrence of a Change of Control, each Holder of Notes will 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 pursuant to the offer described below (the "Change of Control Offer") at an offer price in cash equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest to the date of purchase (the "Change of Control Payment"), subject to the rights of Holders of Notes on the relevant record date to receive

interest due on the relevant interest payment date. Within 30 days following any Change of Control, the Issuer will mail a notice to each Holder stating:

(i) that a Change of Control Offer is being made pursuant to this Section 4.14 and, to the extent lawful, that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment by the Issuer;

(ii) the purchase price and the purchase date, which will be no earlier than 30 days nor later than 60 days from the date such notice is mailed (the "Change of Control Payment Date");

(iii) that any Note not properly tendered or accepted for payment will remain outstanding and continue to accrue interest in accordance with the terms hereof;

(iv) that unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;

(v) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, or transfer by book entry transfer to the Issuer or to the paying agent specified in the notice at the address specified in the notice prior to the close of business at least three Business Days preceding the Change of Control Payment Date;

(vi) that Holders shall be entitled to withdraw their tendered Notes and their election to require the Issuer to purchase such Notes; provided that the paying agent receives, not later than the close of business on the 30th day following the date of the Change of Control notice, a facsimile transmission or letter setting forth the name of the Holder of the Notes, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;

(vii) that if the Issuer is redeeming less than all of the Notes, the Holders of the remaining Notes will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be equal to \$2,000 or an integral multiple of \$1,000 in excess thereof or transferred by book-entry transfer; and

(viii) the other instructions, as determined by the Issuer, consistent with this Section 4.14, that a Holder must follow.

The notice, if mailed in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. If (a) the notice is mailed in a manner herein provided and (b) any Holder fails to receive such notice or a Holder receives such notice but it is defective, such Holder's failure to receive such notice or such defect shall not affect the validity of the proceedings for the purchase of the Notes as to all other Holders that properly received such notice without defect.

(b) 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 and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of this Indenture, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under the Change of Control provisions of this Indenture by virtue of such compliance.

(c) On the Change of Control Payment Date, the Issuer shall, to the extent lawful:

(i) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;

(ii) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Issuer.

The Paying Agent shall promptly mail to each Holder of Notes properly tendered the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book-entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided that each such new Note will be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. The Issuer shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(d) 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 this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer or (ii) notice of redemption has been given pursuant to this Indenture as described above under Section 3.03 unless and until there is a default in payment of the applicable redemption price. A Change of Control Offer may be made in advance of a Change of Control, or conditional 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. Notes repurchased pursuant to a Change of Control Offer will be retired and cancelled.

Section 4.15. Intentionally Omitted.

Section 4.16. Intentionally Omitted.

Section 4.17. Additional Note Guarantees.

If the Issuer or any Restricted Subsidiary acquires or creates another Domestic Subsidiary after the Issue Date and such Domestic Subsidiary incurs any Indebtedness under the Credit Agreement or guarantees any Indebtedness outstanding under the Credit Agreement, then

the Issuer will cause that newly acquired or created Domestic Subsidiary to execute a supplemental indenture pursuant to which it becomes a Guarantor.

Section 4.18. Designation of Restricted and Unrestricted Subsidiaries.

(a) The Board of Directors of Parent may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Issuer and its Restricted Subsidiaries in the Subsidiary designated as Unrestricted will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under Section 4.07 or under one or more clauses of the definition of "Permitted Investments," as determined by the Issuer. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an "Unrestricted Subsidiary." The Board of Directors of Parent may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default.

(b) Any designation of a Subsidiary of the Issuer as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of a resolution of the Board of Directors giving effect to such designation and an Officer's Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Issuer as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09, the Issuer will be in default of such Section 4.09. The Board of Directors of Parent may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary of the Issuer; provided that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Issuer of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted under Section 4.09, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation.

Section 4.19. Covenant Suspension.

(a) If during any period of time that (i) the Notes have Investment Grade Ratings from both Rating Agencies and (ii) no Default or Event of Default has occurred and is continuing under this Indenture, the Issuer and its Restricted Subsidiaries will not be subject to the following covenants (collectively, the "Suspended Covenants"):

- (i) Section 4.07 hereof;
- (ii) Section 4.08 hereof;
- (iii) Section 4.09 hereof;
- (iv) Section 4.10 hereof;

- (v) Section 4.11 hereof; and
- (vi) Section 5.01(a)(iv) hereof.

(b) Notwithstanding the foregoing, if the rating assigned by either such Rating Agency should subsequently decline below Investment Grade Ratings, the foregoing covenants will be reinstated as of and from the date of such rating decline and any actions taken, or omitted to be taken, before such rating decline that would have been prohibited had the foregoing covenants been in effect shall not form the basis for a Default or an Event of Default. Calculations under Section 4.07 will be made as if Section 4.07 had been in effect since the Issue Date except that no Default or Event of Default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. All Indebtedness incurred by the Issuer and its Restricted Subsidiaries while Section 4.09 was suspended that would not have been permitted to be incurred under the covenant had such covenant been applicable shall be deemed Existing Indebtedness.

(c) The Issuer shall deliver promptly to the Trustee an Officer's Certificate notifying it of any such occurrence under Section 4.19(a) and (b).

## ARTICLE 5 SUCCESSORS

### Section 5.01. Merger, Consolidation or Sale of All Assets.

(a) The Issuer shall 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 or assets of the Issuer and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(i) either: (1) the Issuer is the surviving corporation; or (2) 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 has been made is a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia (the Issuer or such Person, including the Person to which such sale, assignment, transfer, conveyance or other disposition has been made, as the case may be, being herein called the "Successor Company");

(ii) the Successor Company (if other than the Issuer) assumes all the obligations of the Issuer under the Notes and this Indenture pursuant to a supplemental indenture;

(iii) immediately after such transaction and after giving pro forma effect to such transaction and any related financing transactions, as if the same had occurred at the

beginning of the applicable four-quarter period, no Default or Event of Default exists; and

(iv) immediately after giving pro forma effect to such transaction and any related financing transactions, as if the same had occurred at the beginning of the applicable four-quarter period, either (a) the Successor Company would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a) or (b) the Fixed Charge Coverage Ratio for the Successor Company and its Restricted Subsidiaries would be equal to or greater than such ratio for the Issuer and its Restricted Subsidiaries immediately prior to such transaction.

(b) The Issuer shall not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

(c) This Section 5.01 will not apply to:

(i) a merger of the Issuer with an Affiliate solely for the purpose of reincorporating the Issuer in another jurisdiction; or

(ii) any consolidation or merger, or any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Issuer and its Restricted Subsidiaries.

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 hereof, the successor corporation 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, lease, conveyance or other disposition, the provisions of this Indenture referring to the Issuer shall refer instead to the successor corporation 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 that the predecessor Issuer shall not be relieved from the obligation to pay the principal of and interest 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 hereof.

ARTICLE 6

DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

(a) Each of the following shall be an "Event of Default" for purposes of this Indenture:

- (i) default for 30 days in the payment when due of interest on the Notes;
- (ii) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the Notes;
- (iii) failure by the Issuer or any Restricted Subsidiary for 60 days after notice to the Issuer by the Trustee or the Holders of at least 30% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any of the other agreements in this Indenture;
- (iv) 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 Restricted Subsidiary (or the payment of which is guaranteed by the Issuer or any Restricted Subsidiary), whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture (other than Indebtedness owed to the Issuer or a Restricted Subsidiary), if that default;

(1) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default; or

(2) 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 Payment Default or the maturity of which has been so accelerated, aggregates \$50.0 million or more;

(v) failure by the Issuer or any Restricted Subsidiary to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$50.0 million, which judgments are not paid, discharged or stayed for a period of 60 days after the judgment becomes final, and, with respect to any such judgments covered by insurance, an enforcement proceeding has been commenced by any creditor upon such judgment or decree that is not promptly stayed;

(vi) except as permitted by this Indenture, any Note Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor that is a Significant Subsidiary, or any Person acting on behalf of such a Guarantor, denies or disaffirms its obligations under its Note Guarantee and such Default continues for 10 days;

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

(1) commences a voluntary case,

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

(3) consents to the appointment of a Custodian of it or for all or substantially all of its property, makes a general assignment for the benefit of its creditors, or

(4) generally is not paying its debts as they become due; or

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

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

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

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

and the order or decree remains unstayed and in effect for 60 days.

(b) The Issuer shall deliver to the Trustee annually a statement regarding compliance with this Indenture, and the Issuer shall, upon becoming aware of any Default or Event of Default, deliver to the Trustee a statement specifying such Default or Event of Default.

#### Section 6.02. Acceleration.

In the case of an Event of Default specified in clause (vii) or (viii) of Section 6.01 hereof, with respect to 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, 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 or the Holders of at least 30% in aggregate principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration, the Notes shall become due and payable immediately.

Section 6.03. Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

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 of a Note 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. All remedies are cumulative to the extent permitted by law.

Section 6.04. Waiver of Past Defaults.

The 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, rescind or cancel any declaration of an existing or past Default or Event of Default and its consequences under this Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes (other than nonpayment of principal or interest that has become due solely because of acceleration). 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.

In the event of any Event of Default specified in Section 6.01(a)(iv), such Event of Default and all consequences thereof (excluding, however, any resulting payment default) will be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders of the Notes, if within 20 days after such Event of Default arose the Issuer delivers an Officer's Certificate to the Trustee stating that (x) the Indebtedness or Guarantee that is the basis for such Event of Default has been discharged or (y) the Holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default or (z) the default that is the basis for such Event of Default has been cured, it being understood that in no event shall an acceleration of the principal amount of the Notes as described above be annulled, waived or rescinded upon the happening of any such events.

Section 6.05. Control by Majority.

Holders of a majority in principal amount of the then total outstanding Notes may 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 that the Trustee determines is unduly prejudicial to the rights of other Holders of a Note or that would involve the Trustee in personal liability.

Section 6.06. Limitation on Suits.

Subject to Section 6.07 hereof, no Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

- (1) such Holder has previously given the Trustee notice that an Event of Default is continuing;
- (2) Holders of at least 30% in aggregate principal amount of the then outstanding Notes have requested the Trustee to pursue the remedy;
- (3) such Holders have offered the Trustee reasonable security or indemnity against any loss, liability or expense;
- (4) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of security or indemnity; and
- (5) Holders of a majority in aggregate principal amount of the then outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07. Rights of Holders of Notes to Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08. Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a)(i) or (ii) hereof 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 for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09. Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceedings, the Issuer, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding has been instituted.

Section 6.10. Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.11. 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 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.

Section 6.12. 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 the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Issuer (or any other obligor upon the Notes including the Guarantors), its creditors or its property and shall be entitled and empowered to participate as a member in any official committee of creditors appointed in such matter and to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such 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 to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. 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 7.07 hereof out of the estate in any such proceeding, shall be denied 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. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.13. Priorities.

If the Trustee collects any money or property pursuant to this Article 6, it shall pay out the money or property in the following order:

- (i) to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;
- (ii) to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, 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, respectively; and
- (iii) to the Issuer or to such party as a court of competent jurisdiction shall direct including a Guarantor, if applicable.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.13.

Section 6.14. 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 a 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, 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 6.14 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE 7

TRUSTEE

Section 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its 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 duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, 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. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities 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 paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved in a court of competent jurisdiction 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 hereof.

(d) Whether or not therein expressly so provided, 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) The Trustee shall be under no obligation to exercise any of its rights or powers under this Indenture at the request or direction of any of the Holders of the Notes unless the Holders have offered to the Trustee reasonable indemnity or security against any loss, liability or expense.

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

Section 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon any document 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, 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 sole cost of the Issuer and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

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

Counsel. The Trustee may consult with counsel of its selection and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent (other than an agent who is an employee of the Trustee) or attorney appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) 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.

(f) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture

(h) 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.

(i) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be 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.

#### 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 otherwise deal with the Issuer or any Affiliate of the Issuer with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

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 or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

Section 7.05. Notice of Defaults.

If a Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default within 90 days after it occurs. Except in the case of a Default relating to the payment of principal, premium, if any, or interest on any Note, the Trustee may withhold from the Holders notice of any continuing 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 of the Notes.

Section 7.06. Reports by Trustee to Holders of the Notes.

Within 60 days after each May 15, beginning with the May 15 following the date of this Indenture, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with Trust Indenture Act Section 313(a) (but if no event described in Trust Indenture Act Section 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Issuer and filed with the SEC and each stock exchange on which the Notes are listed. The Issuer shall promptly notify the Trustee when the Notes are listed on any stock exchange.

Section 7.07. Compensation and Indemnity.

The Issuer shall pay to the Trustee from time to time such compensation for its acceptance of this Indenture and services hereunder as the parties shall agree in writing from time to time. 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 promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Issuer and the Guarantors, jointly and severally, shall indemnify the Trustee for, and hold the Trustee harmless against, any and all loss, damage, claims, liability or expense (including attorneys' fees) incurred by it in connection with the acceptance or administration of this trust and the performance of its duties hereunder (including the costs and expenses of enforcing this Indenture against the Issuer or any of the Guarantors (including this Section 7.07) or defending itself against any claim whether asserted by any Holder, the Issuer or any

Guarantor, or liability in connective with the acceptance, exercise or performance of any of its powers or duties hereunder). The Trustee shall notify the Issuer in writing promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer shall not relieve the Issuer of its obligations hereunder. The Issuer shall defend the claim and the Trustee may have separate counsel and the Issuer shall pay the fees and expenses of such counsel. The Issuer need not (x) pay for any settlement made without its written consent, which shall not be unreasonably withheld, or (y) reimburse any expense or indemnify against any of the foregoing loss, liability, damage, claim or expense incurred by the Trustee through the Trustee's own willful misconduct, negligence or bad faith.

The obligations of the Issuer under this Section 7.07 shall survive the satisfaction and discharge of this Indenture or the earlier resignation or removal of the Trustee.

To secure the payment obligations of the Issuer and the Guarantors in this Section 7.07, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(a)(vii) or (viii) hereof occurs, the expenses and the compensation for the services (including the reasonable fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

#### Section 7.08. Replacement of Trustee.

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 7.08. The Trustee may resign in writing at any time and be discharged from the trust hereby created 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 in writing. The Issuer may remove the Trustee if:

- (a) the Trustee fails to comply with Section 7.10 hereof;
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting as Trustee hereunder or with respect to the Notes.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer. If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee (at the Issuer's expense), the Issuer or the Holders of

at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon, 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 Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee and execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee; provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Issuer's obligations under Section 7.07 hereof shall continue for the benefit of the retiring Trustee.

Section 7.09. Successor Trustee by Merger, etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee; provided, however, that such Person shall be otherwise qualified and eligible under Article Seven hereof.

Section 7.10. 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 trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$150,000,000 as set forth in its most recent published annual report of condition.

ARTICLE 8

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. Option to Effect Legal Defeasance or Covenant Defeasance.

The Issuer may at any time, at the option of Parent's Board of Directors evidenced by a resolution set forth in an Officers' Certificate, elect to have either Section 8.02 or 8.03 hereof applied to all outstanding Notes and all obligations of the Guarantors upon compliance with the conditions set forth below in this Article 8.

Section 8.02. Legal Defeasance and Discharge.

Upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Issuer and the Guarantors shall, subject to the satisfaction of the conditions

set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding Notes and Note Guarantees on the date the conditions set forth below are satisfied ("Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer and the Guarantors shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Note Guarantees), which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all their other obligations under such Notes, the 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 rights of Holders of outstanding Notes to receive payments in respect of the principal of, premium, if any, and interest on such Notes when such payments are due solely out of the trust created pursuant to this Indenture referred to in Section 8.04 hereof;
- (b) the Issuer's obligations with respect to Notes concerning issuing temporary Notes, registration of such Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (c) the rights, powers, trusts, duties and immunities of the Trustee, and the Issuer's and the Guarantors' obligations in connection therewith; and
- (d) this Section 8.02.

If the Issuer exercises the Legal Defeasance option, payment of the Notes may not be accelerated because of an Event of Default with respect to the Notes (other than an Event of Default specified in Section 6.01(a)(i), (ii), (v) or (vi)). Subject to compliance with this Article 8, the Issuer may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

#### Section 8.03. Covenant Defeasance.

Upon the Issuer's exercise under Section 8.01 hereof 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 hereof, be released from their obligations under the covenants contained in Sections 4.05, 4.07 through 4.12 and 4.14 through 4.18 hereof and Section 5.01(a)(iv) and (b) hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied ("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 and the Note Guarantees, the Issuer and the Guarantor 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 hereof, but, except as specified above, the remainder of this Indenture and such Notes and Note Guarantees shall be unaffected thereby. In addition, upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(iii), 6.01(iv), 6.01(v) (solely with respect to Restricted Subsidiaries that are Significant Subsidiaries), 6.01(vi) (solely with respect to Restricted Subsidiaries that are Significant Subsidiaries) and 6.01(vii) shall not constitute Events of Default.

**Section 8.04. Conditions to Legal or Covenant Defeasance.**

The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance with respect to the Notes:

(i) the Issuer shall 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 investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, premium, if any, and interest 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;

(ii) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an opinion of counsel in the United States 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 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 federal income tax purposes as a result of such Legal Defeasance and will be subject to 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;

(iii) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an opinion of counsel in the United States reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to 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;

(iv) 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 the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound;

(v) 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 (other than this Indenture) to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound;

(vi) 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; and

(vii) the Issuer must deliver to the Trustee an Officer's Certificate and an opinion of counsel, each stating that all conditions precedent provided for 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.

Subject to Section 8.06 hereof, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof 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 or a Guarantor 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, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.04 hereof 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.

Anything in this Article 8 to the contrary notwithstanding, the Trustee 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 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(vii) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06. Repayment to the Issuer.

The Trustee shall promptly, and in any event, no later than three Business Days, pay to the Issuer after request therefor, any excess money or Government Securities held with

respect to the Notes at such time in excess of amounts required to pay any of the Issuer's Obligations then owing with respect to the Notes. Subject to any applicable abandoned property law, any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Issuer on its request or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, shall thereupon cease.

Section 8.07. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States dollars or Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; provided that, if the Issuer makes any payment of principal of, premium, if any, or interest on any Note 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 held by the Trustee or Paying Agent.

ARTICLE 9

AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01. Without Consent of Holders of Notes.

Notwithstanding Section 9.02 hereof, the Issuer, any Guarantor (with respect to a Note Guarantee or this Indenture) and the Trustee may amend or supplement this Indenture and any Note Guarantee or the Notes or other agreements or instruments entered into by the Issuer in connection with this Indenture without the consent of any Holder:

- (1) to cure any ambiguity, defect or inconsistency;
- (2) to provide for uncertificated Notes in addition to or in place of certificated Notes;
- (3) to provide for the assumption of the Issuer's or a Guarantor's obligations to Holders of Notes and Note Guarantees in the case of a merger or consolidation or sale of all or substantially all of the Issuer's or such Guarantor's assets, as applicable;
- (4) 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;

- (5) to release a Guarantor upon its sale or designation as an Unrestricted Subsidiary or other permitted release from its Note Guarantee;
- (6) to comply with the requirements of the SEC in order to effect the qualification of this Indenture under the Trust Indenture Act of 1939, as amended;
- (7) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture;
- (8) to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the Notes.

Upon the request of the Issuer accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 9.06 hereof, 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, but 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.

Section 9.02. With Consent of Holders of Notes.

Except as provided below in this Section 9.02, the Issuer and the Trustee may amend or supplement this Indenture, the Notes, the Note Guarantees or the Notes or other agreements or instruments entered into by the Issuer in connection with this Indenture with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default or compliance with any provision of this Indenture, the Note Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 hereof and Section 2.09 hereof shall determine which Notes are considered to be “outstanding” for the purposes of this Section 9.02.

Upon the request of the Issuer accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental 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 9.06 hereof, the Trustee shall join with the Issuer and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture 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 amended or supplemental indenture.

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

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Issuer shall (or cause the Trustee, at the expense of and at the request of the Issuer, to) mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver.

Without the consent of each affected Holder of Notes, an amendment, consent, 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 principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes (except as provided pursuant to Sections 3.07, 3.09, 4.10 and 4.14) hereof;
- (iii) reduce the rate of or change the time for payment of interest, including default interest, on any Note;
- (iv) waive a Default or Event of Default in the payment of principal of, or interest, or premium, 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 Notes and a waiver of the payment default that resulted from such acceleration);
- (v) make any Note payable in money other than that stated in the Notes;
- (vi) 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 or premium, if any, or interest on the Notes;
- (vii) waive a redemption payment with respect to any Note (other than a payment pursuant to Sections 3.07, 3.09, 4.10 or 4.14) hereof;
- (viii) release any Guarantor from any of its obligations under its Note Guarantee or this Indenture, except in accordance with the terms of this Indenture; or
- (ix) make any change in the foregoing amendment and waiver provisions.

Section 9.03. Revocation and Effect of Consents.

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, 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.

The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement, or waiver. If a record date is fixed, then, notwithstanding the preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only such Persons, shall be entitled to consent to such amendment, supplement, or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date unless the consent of the requisite number of Holders has been obtained.

Section 9.04. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Issuer in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.05. Trustee to Sign Amendments, etc.

The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Issuer may not sign an amendment, supplement or waiver until the Board of Directors approves it. In executing any amendment, supplement or waiver, the Trustee shall be entitled to receive and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 12.03 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture 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 any Guarantors party thereto, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof (including Section 9.03).

## ARTICLE 10

### NOTE GUARANTEES

Section 10.01. Note Guarantee.

Subject to this Article 10, from and after the consummation of the Acquisition, each of the Guarantors hereby, jointly and severally, 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 this Indenture, the Notes or the obligations of the Issuer hereunder or thereunder, that: (a) the principal of, interest and premium, if any, on the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Issuer to the Holders or the Trustee hereunder or thereunder shall be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same shall be promptly paid in full when due or performed 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 or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

The Guarantors hereby agree that their obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this 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. Each Guarantor 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 this Indenture.

Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or any Holder in enforcing any rights under this Section 10.01.

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 the Guarantors, any amount paid either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each Guarantor 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. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee. 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 Guarantees.

Each Note Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Issuer for liquidation, reorganization, should the Issuer become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Issuer's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or Note Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

In case any provision of any Note Guarantee 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.

Each payment to be made by a Guarantor in respect of its Note Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

#### Section 10.02. 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 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 any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of each Guarantor shall 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 10, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent conveyance or fraudulent transfer under applicable law. Each Guarantor that makes a payment under its Note Guarantee shall be entitled upon payment in full of all guaranteed obligations under this Indenture to a contribution from each other Guarantor in an amount equal to such other Guarantor's pro rata portion of such payment based on the respective net assets of all the Guarantors at the time of such payment determined in accordance with GAAP.

#### Section 10.03. Execution and Delivery.

To evidence its Note Guarantee set forth in Section 10.01, each Guarantor hereby agrees that a notation of such Note Guarantee substantially in the form included in Exhibit D

shall be endorsed by an Officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents.

Each Guarantor hereby agrees that its Note Guarantee set forth in Section 10.01 hereof shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

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

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.

If required by Section 4.17 hereof, the Issuer shall cause any newly created or acquired Restricted Subsidiary to comply with the provisions of Section 4.17 hereof and this Article 10, to the extent applicable.

Section 10.04. Subrogation.

Each Guarantor shall be subrogated to all rights of Holders of Notes against the Issuer in respect of any amounts paid by any Guarantor pursuant to the provisions of Section 10.01 hereof; provided that, if an Event of Default has occurred and is continuing, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Issuer under this Indenture or the Notes shall have been paid in full.

Section 10.05. Benefits Acknowledged.

Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the guarantee and waivers made by it pursuant to its Note Guarantee are knowingly made in contemplation of such benefits.

Section 10.06. Release of Note Guarantees.

(a) A Note Guarantee by a Guarantor shall be automatically and unconditionally released and discharged, and no further action by such Guarantor, the Issuer or the Trustee is required for the release of such Guarantor's Note Guarantee:

(1) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Restricted Subsidiary of the Issuer, if the sale or other disposition does not violate Section 4.10;

(2) in connection with any sale or other disposition of all of the Capital Stock of that 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, if the sale or other disposition does not violate Section 5.01;

(3) if the Issuer designates such Guarantor as an Unrestricted Subsidiary in accordance with Section 4.18;

(4) if the Issuer exercises its legal defeasance or satisfaction and discharge option pursuant to Section 8.01 and Section 11.01, as applicable; or

(5) if such Guarantor is released and discharged from all of its Indebtedness under the Credit Agreement and all of its guarantees of any Indebtedness outstanding under the Credit Agreement;

such Guarantor delivering to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in this Indenture relating to such transaction have been complied with in all material respects.

(b) At the request and at the expense of the Issuer, the Trustee shall execute and deliver any instrument evidencing such release.

Section 10.07. Guarantors May Consolidate, etc., on Certain Terms.

(a) Except as otherwise provided in Section 10.07 hereof, no Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Issuer or another Guarantor, unless:

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

(ii) either:

(A) subject to Section 10.07 hereof, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that Guarantor under this Indenture and its Note Guarantee on the terms set forth herein or therein, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee; or

(B) the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of this Indenture, including without limitation, Section 4.10 hereof.

(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 the Guarantor, such successor Person will succeed to and be substituted for the

Guarantor with the same effect as if it had been named herein as a Guarantor. All the Note Guarantees so issued will 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 date of the execution hereof.

(c) Except as set forth in Articles 4 and 5 hereof, and notwithstanding clauses (a)(ii)(A) and (B) above, nothing contained in this Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Issuer or another Guarantor, or will 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.

## ARTICLE 11

### SATISFACTION AND DISCHARGE

#### Section 11.01. Satisfaction and Discharge.

This Indenture shall be discharged and shall cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the Notes, as expressly provided for herein) as to all outstanding Notes, when:

(1) either

(a) all the Notes theretofore authenticated and delivered (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) have been delivered to the Trustee for cancellation; or

(b) all the Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash or Cash Equivalents in U.S. dollars, non-callable Government Securities or a combination of cash or Cash Equivalents in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, 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, if any, and interest on the Notes to the date of maturity or redemption;

(2) no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and the grant of any Lien securing such borrowing) and the deposit will not result in a breach or violation of, or constitute a default under,

any other material debt instrument to which the Issuer is a party or by which the Issuer is bound;

(3) the Issuer or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture;

(4) the Issuer has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or on the redemption date, as the case may be; and

(5) 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.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 11.01, the provisions of Section 11.02 and Section 8.06 hereof shall survive.

Section 11.02. Application of Trust Money.

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 11.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 hereof 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, the Issuer's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01 hereof; provided that if the Issuer has made any payment of principal of, premium, if any, or interest on any Notes because of 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 12

MISCELLANEOUS

Section 12.01. Notices.

Any notice or communication by the Issuer, any Guarantor or the Trustee to the others is duly given if in writing and delivered in person or mailed by first-class mail (registered

or certified, return receipt requested), fax or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Issuer and/or any Guarantor:

Allison Transmission, Inc.  
4700 West 10th Street  
Indianapolis, IN 46222  
Attention: Chief Financial Officer

with a copy to:

Allison Transmission Holdings, Inc.  
c/o The Carlyle Group  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004-2505  
Attention: Martin Sumner

and

Onex Corporation  
161 Bay Street  
P.O. Box 700  
Toronto, ON M5J 2S1  
Attention: Kosty Gilis

with a copy to:

Latham & Watkins LLP  
555 Eleventh Street, NW  
Suite 1000  
Washington, DC 20004  
Attention: Rachel W. Sheridan, Esq.

If to the Trustee:

Wells Fargo Bank, National Association  
213 Court Street  
Suite 703  
Middletown, CT 06457  
Fax No.: (860) 704-6219  
Attention: Joseph P. O'Donnell

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; five

calendar days after being deposited in the mail, postage prepaid, if mailed by first-class mail; when receipt acknowledged, if faxed; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

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. 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 within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Issuer mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

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.

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.

Section 12.02. Communication by Holders of Notes with Other Holders of Notes.

Holders may communicate with other Holders with respect to their rights under this Indenture or the Notes.

Section 12.03. Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Issuer or any of the Guarantors to the Trustee to take any action under this Indenture, the Issuer or such Guarantor, as the case may be, shall furnish to the Trustee:

(a) An Officer's Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.04 hereof) 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 satisfied; and

(b) An Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.04 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Notwithstanding the foregoing, no such Opinion shall be given with respect to the delivery of the Initial Notes.

Section 12.04. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to Section 4.04 hereof) 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 to express an informed opinion as to whether or not such covenant or condition has been complied with (and, in the case of an Opinion of Counsel, may be limited to reliance on an Officer's Certificate as to matters of fact); and
- (d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Section 12.05. Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12.06. Personal Liability of Directors, Officers, Employees and Stockholders.

No director, officer, employee, incorporator or stockholder of the Issuer, any of its Subsidiaries or any of its direct or indirect parent entities, as such, will have any liability for any obligations of the Issuer or the Guarantors under the Notes, this Indenture or the Note Guarantees or 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 are part of the consideration for issuance of the Notes.

Section 12.07. Governing Law.

THIS INDENTURE, THE NOTES AND ANY NOTE GUARANTEE WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 12.08. Waiver of Jury Trial.

EACH OF THE ISSUER, THE GUARANTORS AND THE TRUSTEE 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 OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 12.09. Force Majeure.

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services.

Section 12.10. 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 its Restricted Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.11. Successors.

All agreements of the Issuer in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors. All agreements of each Guarantor in this Indenture shall bind its successors, except as otherwise provided in Section 10.05 hereof.

Section 12.12. Severability.

In case any provision in this Indenture or in the Notes 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.

Section 12.13. Counterpart Originals.

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.

Section 12.14. Table of Contents, Headings, etc.

The Table of Contents, Cross-Reference Table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following pages]

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

ALLISON TRANSMISSION, INC.

By: /s/ John Hazen

Name: John Hazen

Title: Executive Vice President, Chief Financial Officer,  
Secretary and Treasurer

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Joseph P. O'Donnell

Name: Joseph P. O'Donnell

Title: Vice President

SIGNATURE PAGE - INDENTURE

**SCHEDULE I**

GM corporate allocations  
Stand-alone costs  
Restructuring severance costs  
Legal settlement costs  
Revenue exclusions  
Pension expenses  
Other post-retirement benefit expenses  
Receivable securitization expenses  
Torque-converter warranty reimbursement expenses

**[Face of Senior Note]**

*[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]*

*[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]*

*[Insert the Regulation S Temporary Global Note Legend, if applicable pursuant to the provisions of the Indenture]*

CUSIP [       ]

ISIN [       ]

GLOBAL NOTE  
representing up to  
\$550,000,000  
11% Senior Notes due 2015

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

ALLISON TRANSMISSION, INC.

promises to pay to CEDE & CO. or registered assigns, the principal sum set forth on the Schedule of Exchanges of Interests in the Global Note attached hereto on November 1, 2015.

Issue Date: .

Interest Payment Dates: November 1 and May 1.

Record Dates: October 15 and April 15.

IN WITNESS HEREOF, the Issuer has caused this instrument to be duly executed.

Dated: \_\_\_\_\_, 200

ALLISON TRANSMISSION, INC.

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

This is one of the Notes referred to in the within-mentioned Indenture:

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Trustee

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

[Back of Senior Note]

11% Senior Notes due 2015

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

**INTEREST.** Allison Transmission, Inc., a Delaware corporation, promises to pay interest on the principal amount of this Note at 11% per annum from \_\_\_\_\_, 20\_\_\_\_ until maturity. Interest will be payable in cash semi-annually in arrears on each November 1 and May 1, commencing on \_\_\_\_\_ to the holders of record on the immediately preceding October 15 and May 15. Interest will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from and including the Issue Date. The Issuer will pay interest (including post-petition interest in any proceeding under Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at the interest rate on this Note; it shall pay interest (including post-petition interest in any proceeding under Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods), from time to time on demand at the interest rate on this Note, to the extent lawful. Interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months.

**METHOD OF PAYMENT.** The Issuer will pay interest on the Notes to the Persons who are registered Holders of Notes at the close of business on the Record Dates set forth on the face of this Note (whether or not a Business Day), as the case may be, next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. Payment of Interest may be made 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 and interest and premium, if any, on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Issuer or the Paying Agent. Such payment shall 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.

**PAYING AGENT AND REGISTRAR.** Initially, Wells Fargo Bank, National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Issuer may change any Paying Agent or Registrar without notice to the Holders. The Issuer or any of its Subsidiaries may act in any such capacity.

**INDENTURE.** The Issuer issued the Notes under an Indenture, dated as of October 16, 2007 (the "Indenture"), among Allison Transmission, Inc. and the Trustee. This Note is one of a duly authorized issue of notes of the Issuer designated as its 11% Senior Notes due 2015. The Notes are subject to all the terms in the Indenture, and Holders are referred to the Indenture for a statement of such terms. 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 obligations of the Issuer. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of original issuance.

OPTIONAL REDEMPTION.

At any time prior to November 1, 2011, the Issuer may redeem all or a part of the Notes, upon not less than 10 nor more than 60 days' prior notice mailed by first-class mail to each Holder's registered address, at a redemption price equal to 100% of the principal amount of Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest to the date of redemption, subject to the rights of the Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date. The Issuer is not prohibited by the terms of the Indenture from acquiring the Notes by means other than redemption, whether pursuant to an issuer tender offer, in open market transactions, or otherwise, assuming such acquisition does not otherwise violate the terms of the Indenture.

"Applicable Premium" means, with respect to the Note on any applicable Redemption Date, the greater of:

- (1) 1.0% of the then outstanding principal amount of the Note; and
- (2) the excess of:

- (a) the present value at such Redemption Date of (i) the redemption price of the Note as specified above at November 1, 2011 plus (ii) all required interest payments due on the Note through November 1, 2011 (excluding accrued and unpaid interest to such redemption date), computed using a discount rate equal to the Treasury Rate as of such Redemption Date plus 50 basis points; over
- (b) the then outstanding principal amount of the Note.

"Treasury Rate" means, as of the applicable redemption date, 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 (519) that has become publicly available at least two Business Days prior to such 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 such redemption date to November 1, 2011; provided, however, that if the period from such redemption date to November 1, 2011 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.

At any time prior to November 1, 2010, the Issuer may on any one or more occasions redeem up to 35% of the aggregate principal amount of Notes with the net cash proceeds of one or more Equity Offerings, at 111% of the principal amount thereof, plus accrued and unpaid interest, if any, thereon to the redemption date; provided that at least 65% of the aggregate principal amount of the Notes originally issued remains outstanding immediately following such redemption (excluding Notes held by the Issuer or any of its Subsidiaries); and provided, further, that such redemption shall occur within 90 days of the date of the closing of any such Equity Offering.

The Notes will be redeemable, in whole or in part on any one or more occasions, at the option of the Issuer, on or after November 1, 2011, upon not less than 10 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 to the applicable redemption date, if redeemed during the twelve-month period beginning on November 1 of the years indicated below:

<u>YEAR</u>	<u>PERCENTAGE</u>
2011	105.500%
2012	102.750%
2013 and thereafter	100.000%

Any redemption pursuant to this section shall be made pursuant to the provisions of Sections 3.01 through 3.06 of the Indenture.

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

NOTICE OF REDEMPTION. Subject to Section 3.03 of the Indenture, notice of redemption will be mailed by first-class mail at least 10 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the redemption date interest ceases to accrue on the Notes or portions thereof called for redemption.

OFFER TO REPURCHASE.

Upon the occurrence of a Change of Control, Article 3 and Section 4.14 of the Indenture shall apply to the extent applicable.

If the Issuer or any of its Restricted Subsidiaries consummates an Asset Sale, Article 3 and Section 4.10 of the Indenture shall apply to the extent applicable.

DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples 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 Issuer need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Issuer need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

AMENDMENT, SUPPLEMENT AND WAIVER. The Indenture, the Note Guarantees or the Notes may be amended or supplemented as provided in the Indenture.

DEFAULTS AND REMEDIES. The Events of Default relating to the Notes are defined in Section 6.01 of the Indenture. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 30% in principal amount of the then outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture, the Notes or the Note Guarantees except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate 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 continuing Default (except a Default relating to the payment of principal, premium, if any, or interest) if it determines that withholding notice is in their interest. The 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 and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes (other than nonpayment of principal or interest that has become due solely because of acceleration). The Issuer and each Guarantor is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Issuer is required after becoming aware of any Default, to deliver to the Trustee a statement specifying such Default and what action the Issuer proposes to take with respect thereto.

AUTHENTICATION. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

GOVERNING LAW. THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THE NOTES AND THE NOTE GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Issuer has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to 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.

The Issuer will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to the Issuer at the following address:

Allison Transmission, Inc.  
4700 West 10th Street  
Indianapolis, IN 46222  
Attention: Chief Financial Officer

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: \_\_\_\_\_  
(Insert assignee' legal name)

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

\_\_\_\_\_  
(Print or type assignee's name, address and zip code)

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

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).

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 4.10 or 4.14 of the Indenture, check the appropriate box below:

Section 4.10    Section 4.14

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased:

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

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).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE\*

The initial outstanding principal amount of this Global Note is \$[\_\_\_\_\_]. 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 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</u>	<u>Amount of increase in Principal Amount 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 Note Custodian</u>
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\* This schedule should be included only if the Note is issued in global form.

## FORM OF CERTIFICATE OF TRANSFER

Allison Transmission, Inc.  
4700 West 10th Street  
Indianapolis, IN 46222  
Attention: Chief Financial Officer

Wells Fargo Bank, National Association  
213 Court Street  
Suite 703  
Middletown, CT 06457  
Fax No.: (860) 704-6219  
Attention: Joseph P. O'Donnell

Re: 11% Senior Notes due 2015

Reference is hereby made to the Indenture, dated as of October 16, 2007 (the "Indenture"), among Allison Transmission, Inc. and the 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:

B-1

1.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States 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 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 Indenture and the Securities Act.

2.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S GLOBAL NOTE OR A 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) if the proposed transfer is being made prior to the expiration of the Restricted Period, 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 Indenture and the Securities Act.

3.  CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 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 Transfer is being effected to the Issuer or a subsidiary thereof;

or

(c)  such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

4.  CHECK IF 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 Private Placement 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 Private Placement 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 (ii) the restrictions on transfer contained in the Indenture and the Private Placement 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 Private Placement 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 Private Placement 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 Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Issuer.

[Insert Name of Transferor]

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

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

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

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

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), or
  - (ii)  Regulation S Global Note (CUSIP), 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), or
  - (ii)  Regulation S Global Note (CUSIP), or
- (b)  a Restricted Definitive Note.

## FORM OF CERTIFICATE OF EXCHANGE

Allison Transmission, Inc.  
 4700 West 10th Street  
 Indianapolis, IN 46222  
 Attention: Chief Financial Officer

Wells Fargo Bank, National Association  
 213 Court Street  
 Suite 703  
 Middletown, CT 06457  
 Fax No.: (860) 704-6219  
 Attention: Joseph P. O'Donnell

Re: 11% Senior Notes due 2015

Reference is hereby made to the Indenture, dated as of October 16, 2007 (the "Indenture"), among Allison Transmission, Inc. and the 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 herein, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

**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 Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

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 Private Placement Legend 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 and are dated \_\_\_\_\_.

[Insert Name of Transferor]

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

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

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

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

## NOTE GUARANTEE

For value received, each of the undersigned hereby unconditionally guarantees, as principal obligor and not only as a surety, to the Holders of Notes the cash payments in United States dollars of principal of, premium, if any, and interest on such Notes (and including additional interest payable thereon) in the amounts and at the times when due and interest on the overdue principal, premium, if any, and interest, if any, of such Notes, if lawful, and the payment or performance of all other Obligations of the Issuer under the Indenture (as defined below) or the Notes, to the Holders of Notes and the Trustee, all in accordance with and subject to the terms and limitations of the Notes, Article Ten of the Indenture and this Note Guarantee. This Note Guarantee will become effective in accordance with Article Ten of the Indenture and its terms shall be evidenced therein. The validity and enforceability of this Note Guarantee shall not be affected by the fact that it is not affixed to any particular Note. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Indenture dated as of October 16, 2007, among Allison Transmission, Inc., a Delaware corporation (the "Company"), the Guarantor[s] party thereto and Wells Fargo Bank, National Association, as trustee (as amended or supplemented, the "Indenture").

This Note Guarantee shall become effective upon consummation of the Acquisition.

THIS NOTE GUARANTEE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. Each Guarantor hereby agrees to submit to the jurisdiction of the courts of the State of New York in any action or proceeding arising out of or relating to this Note Guarantee.

This Note Guarantee is subject to release upon the terms set forth in the Indenture.

[Signatures on following pages]

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[FUTURE GUARANTORS]

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

INDENTURE

Dated as of October 17, 2007

Among

ALLISON TRANSMISSION, INC.

THE GUARANTORS PARTY HERETO

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Trustee

11 1/4 % SENIOR TOGGLE-NOTES DUE 2015

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EXHIBITS

Exhibit A	Form of Senior Toggle Note
Exhibit B	Form of Certificate of Transfer
Exhibit C	Form of Certificate of Exchange
Exhibit D	Form of Note Guarantee

INDENTURE, dated as of October 17, 2007, between Allison Transmission, Inc., a Delaware corporation (the “Issuer”) and Wells Fargo Bank, National Association, a national banking association, as Trustee.

WITNESSETH:

WHEREAS, the Issuer has duly authorized the creation of an issue of \$550,000,000 aggregate principal amount of 11 1/4% Senior Toggle Notes due 2015 (the “Initial Notes”); and

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture and each Guarantor, if any, has duly authorized the execution and delivery of each Note Guarantee.

NOW, THEREFORE, the Issuer, each Guarantor, if any, and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Notes.

## ARTICLE 1

### DEFINITIONS AND INCORPORATION BY REFERENCE

#### Section 1.01. Definitions

“144A Global Note” means a Global Note substantially in the form of Exhibit A hereto, bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

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

- (1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person; and
- (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Acquisition” means the acquisition by Clutch Operating Company, Inc., which was renamed Allison Transmission Holdings, Inc. upon the closing of the Acquisition, of the Allison Transmission business from General Motors Corporation consummated on August 7, 2007.

“Acquisition Closing Date” means August 7, 2007.

“Acquisition Documents” means the Asset Purchase Agreement and any other documents entered into in connection therewith, in each case as amended, supplemented or modified from time to time.

“Additional Notes” means additional Notes (other than the Initial Notes and other than Notes issued for such Initial Notes pursuant to Sections 2.06, 2.07, 2.10 and 3.06 hereof) issued from time to time under this Indenture in accordance with Sections 2.01 and 4.09 hereof.

“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; provided that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” have correlative meanings.

“Agent” means any Registrar or Paying Agent.

“Applicable Premium” has the meaning set forth in Exhibit A hereto.

“Applicable Procedures” means, with respect to any transfer, redemption or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and/or Clearstream that apply to such transfer, redemption or exchange.

“Asset Purchase Agreement” means the Asset Purchase Agreement, dated as of June 28, 2007, by and between General Motors Corporation and Clutch Operating Company, Inc.

“Asset Sale” means:

- (1) the sale, lease, conveyance or other disposition of any assets or rights; and
- (2) the issuance or sale of Equity Interests in any of the Issuer’s Restricted Subsidiaries.

Notwithstanding the preceding, none of the following items shall be deemed to be an Asset Sale:

- (1) a disposition of Cash Equivalents or obsolete or worn out property or equipment in the ordinary course of business or inventory (or other assets) held for sale in the ordinary course of business and dispositions of property no longer used or useful in the conduct of the business of the Issuer and its Restricted Subsidiaries;

(2) the disposition of all or substantially all of the assets of the Issuer in a manner permitted pursuant to Section 5.01 or any disposition that constitutes a Change of Control pursuant to this Indenture;

(3) the making of any Restricted Payment or Permitted Investment that is permitted to be made, and is made, pursuant to Section 4.07 or the granting of a Lien permitted by Section 4.12;

(4) any disposition of assets or issuance or sale of Equity Interests of any Restricted Subsidiary in any transaction or series of transactions with an aggregate Fair Market Value of less than \$20.0 million;

(5) any disposition of property or assets or issuance of securities by a Restricted Subsidiary to the Issuer or by the Issuer or a Restricted Subsidiary to another Restricted Subsidiary;

(6) the sale, lease, assignment, sublease, license or sublicense of any assets or rights in the ordinary course of business;

(7) any sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(8) foreclosures on assets;

(9) disposition of an account receivable in connection with the collection or compromise thereof;

(10) [intentionally omitted];

(11) [intentionally omitted];

(12) the grant in the ordinary course of business of licenses of patents, trademarks, know-how and any other intellectual property;

(13) any financing transaction with respect to property built or acquired by the Issuer or any Restricted Subsidiary after the Issue Date, including Sale and Lease-Back Transactions and asset securitizations permitted by this Indenture;

(14) foreclosures, condemnation or any similar action on assets or the granting of Liens not prohibited by this Indenture;

(15) the discount of inventory, accounts receivable or notes receivable in the ordinary course of business or the conversion of accounts receivable to notes receivable;

(16) any surrender or waiver of contract rights or the settlement, release or surrender of contract rights or other litigation claims in the ordinary course of business;

(17) to the extent allowable under Section 1031 of the Code, any exchange of like property (excluding any boot thereon) for use in a Permitted Business; and

(18) dispositions in connection with outsourcing of services.

“Bankruptcy Law” means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

“Board of Directors” means (1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board; (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.

“Business Day” means each day that is not a Legal Holiday.

“Capital Lease Obligation” means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

“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 interests (whether general or limited) or membership interests; 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, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash Equivalents” means:

(1) United States dollars or, in the case of a Foreign Subsidiary, such local currencies held by it from time to time in the ordinary course of business;

(2) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the

securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition;

(3) certificates of deposit, time deposits and eurodollar time deposits with maturities of 24 months or less from the date of acquisition, bankers' acceptances with maturities not exceeding 24 months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$250.0 million;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5) commercial paper having a rating of at least A-1 from Moody's or P-1 from S&P and, in each case, maturing within 24 months after the date of acquisition and Indebtedness and Preferred Stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 24 months or less from the date of acquisition;

(6) readily marketable direct obligations issued by any state of the United States or any political subdivision thereof having one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 24 months or less from the date of acquisition;

(7) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another rating agency), and in each case maturing within 24 months after the date of creation or acquisition thereof;

(8) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's;

(9) instruments equivalent to those referred to in clauses (1) to (8) above denominated in euro or pound sterling or any other foreign currency comparable in credit quality and tenor to those referred to above and customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by any Restricted Subsidiary organized in such jurisdiction; and

(10) investment in funds which invest substantially all of their assets in Cash Equivalents of the kinds described in clauses (1) through (9) of this definition.

“Cash-Pay Notes” means the Company’s 11% Senior Notes due 2015.

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

(1) the sale, lease or transfer (other than by way of merger or consolidation) 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 other than a Permitted Holder; or

(2) the Issuer becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) 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), 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), other than one or more Permitted Holders, 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 (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision) of 50% or more of the total voting power of the Voting Stock of the Issuer (directly or through the acquisition of voting power of Voting Stock of any of the Issuer’s direct or indirect parent companies); or

(3) during any period of two consecutive years, individuals who at the beginning of such period constituted the Board of Directors of Parent (together with any new directors whose election to such Board of Directors of Parent or whose nomination for election by the interest holders of Parent was approved by a vote of 66 2/3% of the directors of Parent then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved or directors who were nominated or approved by the Sponsors) cease for any reason to constitute a majority of the Board of Directors of Parent.

“Clearstream” means Clearstream Banking Societe Anonyme and any successor thereto.

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

“Consolidated Depreciation and Amortization Expense” means with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees, and other noncash charges (excluding any noncash item that represents an accrual or reserve for a cash expenditure for a future period) 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 (a) consolidated interest expense of such Person and its Restricted Subsidiaries for such period (including amortization of original issue discount, noncash interest payments (other than imputed interest as a result of purchase accounting), commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing, the interest component of Capital Lease Obligations, net

payments (if any) pursuant to interest rate Hedging Obligations, but excluding amortization of deferred financing fees or expensing of any bridge or other financing fees and (b) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, less (d) interest income actually received in cash 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, and otherwise determined in accordance with GAAP; provided, however, that

(1) any after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including relating to the Transactions), severance, relocation costs and curtailments or modifications to pension and post-retirement employee benefit plans shall be excluded,

(2) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period,

(3) any after-tax effect of income or loss from disposed of or discontinued operations and any net after-tax gains or losses on disposal of disposed of, abandoned or discontinued operations shall be excluded,

(4) any after-tax effect of gains or losses (less all fees and expenses relating thereto) attributable to 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 shall be excluded,

(5) the Net Income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided that Consolidated Net Income of the Issuer shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) to the referent Person or a Restricted Subsidiary thereof in respect of such period;

(6) solely for the purpose of determining the amount available for Restricted Payments under Section 4.07(a)(3)(i), the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded if the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its Net Income is not at the date of determination wholly 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 restriction with respect to the payment of dividends or similar distributions has been legally waived; provided that Consolidated Net Income of the Issuer will be increased by the amount of dividends or other distributions or other payments actually 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,

(7) the effect of any non-cash items resulting from any amortization, write-up, write-down or write-off of assets (including intangible assets, goodwill and deferred financing costs), or a write-down of liabilities in connection with the Transactions or any future acquisition, merger, consolidation or similar transaction (excluding any such non-cash item to the extent that it represents an accrual of or reserve for cash expenditures in any future period except to the extent such item is subsequently reversed) shall be excluded;

(8) any after-tax effect of income or loss from the early extinguishment of (i) Indebtedness, (ii) Hedging Obligations or (iii) other derivative instruments shall be excluded,

(9) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded,

(10) any non-cash compensation charge or expense recorded from grants of stock appreciation or similar rights, stock options, restricted stock or other rights shall be excluded,

(11) 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 Acquisition Closing 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,

(12) accruals and reserves that are established within twelve months after the Acquisition Closing Date that are so required to be established as a result of the Transactions in accordance with GAAP shall be excluded, and

(13) the following items shall be excluded:

(a) any net unrealized gain or loss (after any offset) resulting in such period from Hedging Obligations and the application of Statement of Financial Accounting Standards No. 133; and

(b) any net unrealized gain or loss (after any offset) resulting in such period from currency translation gains or losses related to currency remeasurements of Indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk).

In addition, to the extent not already included in the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall include the amount of proceeds received from

business interruption insurance and reimbursements of any expenses and charges that are covered by indemnification or other reimbursement provisions in connection with any Permitted Investment or any sale, conveyance, transfer or other disposition of assets permitted under this Indenture.

Notwithstanding the foregoing, for the purpose of Section 4.07 only (other than Section 4.07(a)(3)), 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 the Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments made by the Issuer and the Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments made by the Issuer and any Restricted Subsidiary, 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 4.07(a)(3).

“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, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) 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 (iii) 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 of the Trustee” means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office shall be as designated by the Trustee as of the date hereof, or such other address as the Trustee may designate from time to time by notice to the Holders and the Issuer, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by written notice to the Holders and the Issuer).

“Credit Agreement” means that certain Credit Agreement, dated as of the Acquisition Closing Date, by and among the Issuer and Citigroup Global Markets Inc., Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated as joint-lead arrangers and joint bookrunners, Citicorp North America, Inc., as administrative agent, Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as syndication agents, 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 (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) or commercial paper facilities, in each case, with banks or other institutional lenders or investors providing for revolving credit loans, term loans, notes or

other securities, 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) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced (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.

“Custodian” means the Trustee, as custodian with respect to the Notes issuable or issued in whole or in part in global form, or any successor entity thereto appointed as a custodian hereunder and having become such pursuant to the applicable provisions of this Indenture.

“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.

“Definitive Note” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06(c) hereof, substantially in the form of Exhibit A hereto, except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“Depository” means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof 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 a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation less the amount of cash or Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

“Designated Preferred Stock” means Preferred Stock of the Issuer or Parent, as applicable (other than Disqualified Stock), that is issued for cash (other than to the Issuer or any of its Subsidiaries or an employee stock ownership plan or trust established by the Issuer or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate, on the issuance date thereof.

“Disqualified Stock” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable (other than solely as a result of a change of control or asset sale), pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock (other than solely as a result of a change of control or asset sale), in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Issuer to repurchase such Capital Stock upon the occurrence of a Change of Control or an Asset Sale shall 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 Section 4.07.

“Domestic Subsidiary” means any Restricted Subsidiary of the Issuer that was formed under the laws of the United States or any state of the United States or the District of Columbia or that guarantees or otherwise provides direct credit support for any Indebtedness of the Issuer.

“EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period plus, without duplication, the following (in each case, on a consolidated basis, determined in accordance with GAAP, and other than with respect to clauses (11) and (12), to the extent deducted in computing Consolidated Net Income):

- (1) the provision for taxes based on income or profits, plus franchise or similar taxes, of such Person for such period, plus
- (2) Consolidated Interest Expense of such Person for such period, plus
- (3) Consolidated Depreciation and Amortization Expense of such Person for such period, plus
- (4) the after-tax effect of any extraordinary, non-recurring or unusual losses (less all fees and expenses relating thereto); plus
- (5) the amount of any restructuring charges or reserves (which, for the avoidance of doubt, shall include retention, severance, systems establishment cost, excess pension charges, contract termination costs, including future lease commitments, and costs to consolidate facilities and relocate employees) including in connection with the Transactions, plus
- (6) other non-cash charges, expenses or losses (excluding any such non-cash charge, expense or loss to the extent that it represents an accrual of or reserve for cash expenses in any future period or an amortization of a prepaid cash expense that was paid in a prior period (but including any non-cash expenses resulting from purchase accounting in connection with the Transactions and the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances)), plus
- (7) any gain to the extent that it represents a reversal of an accrual of or reserve for a potential cash payment in any future period, plus
- (8) operating expense reductions and other operating improvements, synergies or costs savings that have been realized or are reasonably anticipated to be realizable within 18 months of any Investment, acquisition, disposition, merger, consolidation, discontinued operation or action being given pro forma effect (including, to the extent applicable, from the Transactions); plus

(9) costs and expenses of the nature identified on Schedule I hereto, to the extent such adjustments are applicable during the period in which EBITDA is being calculated; plus

(10) the amount of management, monitoring, consulting, advisory fees, termination payments and related expenses paid to the Sponsors (or any accruals relating to such fees and related expenses) during such period pursuant to the Management Agreement, less

(11) extraordinary, non-recurring or unusual gains (including any gains resulting from the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances)), less

(12) other non-cash income or gains (excluding any such non-cash gain to the extent that it represents a reversal of an accrual of or reserve for a potential cash payment in any future period (but including any non-cash gains resulting from the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances))).

“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 sale or private sale of any Capital Stock of the Issuer or any of its direct or indirect parent entities (excluding Disqualified Stock of the Issuer), other than (i) public offerings with respect to common stock of the Issuer or of any of its direct or indirect parent entities registered on Form S-4 or Form S-8, (ii) any such public sale that constitutes an Excluded Contribution or (iii) an issuance to any Subsidiary of the Issuer.

“Euroclear” means Euroclear 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, or any successor statute or statutes thereto, and the rules and regulations of the SEC promulgated thereunder.

“Exchange Notes” has the meaning set forth in the Senior Interim Loan Credit Agreement.

“Excluded Contribution” means net cash proceeds, marketable securities or Qualified Proceeds, in each case received by the Issuer and its Restricted Subsidiaries from:

(1) contributions to its common equity capital; and

(2) the sale (other than to a Subsidiary or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Issuer or any Subsidiary) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock),

in each case designated as Excluded Contributions pursuant to an Officer's Certificate.

"Existing Indebtedness" means Indebtedness of the Issuer and its Subsidiaries (other than Indebtedness under the Credit Agreement, the Senior Interim Loan Credit Agreement, the Notes and the Note Guarantee, if any, and any PIK Notes issued as a result of a PIK Payment with respect to the Notes) in existence on the Issue Date, until such amounts are repaid.

"Fair Market Value" means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Board of Directors of the Parent.

"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 Restricted Subsidiary incurs, assumes, guarantees or repays any Indebtedness or issues 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, assumption, guarantee or repayment of Indebtedness, or such issuance or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period. Investments, acquisitions, dispositions, mergers, consolidations or discontinued operations changes that have been made by the Issuer or any Restricted Subsidiary during the subject period or subsequent to such period and on or prior to or simultaneously with the Calculation Date or if the Issuer or any Restricted Subsidiary had accounted for any of its business as a discontinued operation during any such period, then the Fixed Charge Coverage Ratio shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers or consolidations (and the change in any associated Fixed Charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the subject period and that such discontinued operation was disposed of on the first day of such 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 the related hedge has a remaining term in excess of twelve months). Interest on a Capital Lease Obligation shall be deemed to accrue at the interest rate reasonably determined by a responsible financial or accounting officer of the Person to be the rate of interest implicit in such Capital 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 Person may designate.

For purposes of this definition, whenever pro forma effect is to be given to an Investment, acquisition, disposition, merger, consolidation, discontinued operation or action taken or initiated (including, without limitation, the Transactions) and the amount of income or earnings relating thereto, the pro forma calculations shall be determined in good faith by a responsible financial or accounting officer of the Issuer. Any such pro forma calculation may include adjustments appropriate, in the reasonable determination of such responsible financial officer as set forth in an Officer's Certificate, to reflect (1) operating expense reductions and other operating improvements, synergies or cost savings that have been realized or are reasonably anticipated to be realizable within 18 months of such Investment, acquisition, disposition, merger, consolidation, discontinued operation or action being given pro forma effect (including, to the extent applicable, from the Transactions), and (2) all one-time costs and expenses identified on Schedule I hereto, to the extent such costs and expenses, without duplication, continue to be applicable to such period.

“Fixed Charges” means, with respect to any Person for any period, the sum of, without duplication, (a) Consolidated Interest Expense of such Person for such period, and (b) all cash dividends paid during such period (excluding items eliminated in consolidation) on any series of Disqualified Stock or Preferred Stock of such Person and its Restricted Subsidiaries.

“Foreign Subsidiary” means any Restricted Subsidiary of the Issuer that is not a Domestic Subsidiary.

“GAAP” means generally accepted accounting principles 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 from time to time.

“Global Note Legend” means the legend set forth in Section 2.06(g)(ii) hereof, which is required to be placed on all Global Notes issued under this Indenture.

“Global Notes” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes deposited with or on behalf of and registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A hereto and that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, issued in accordance with Section 2.01, 2.06(b) or 2.06(d) hereof.

“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.

“Guarantee” means 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 (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

“Guarantors” means (1) each Domestic Subsidiary of the Issuer on the date of this Indenture which is an obligor under the Credit Agreement and (2) each other Subsidiary of the Issuer that executes a Note Guarantee in accordance with the provisions of this Indenture, in each case, together with their respective successors and assigns until the Note Guarantee of such Person has been released in accordance with the provisions of this Indenture.

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

- (1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;
- (2) other agreements or arrangements designed to manage interest rates or interest rate risk; and
- (3) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

“Holder” means a Person in whose name a Note is registered.

“Indebtedness” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker’s acceptances;
- (4) representing Capital Lease Obligations;
- (5) representing the balance deferred and unpaid of the purchase price of any property or services (including, without limitation, earn-out obligations that are reflected as a liability on the balance sheet of such Person in accordance with GAAP) due more than six months after such property is acquired or such services are completed; or
- (6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP (excluding the footnotes thereto). In addition, the term “Indebtedness” includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person. Notwithstanding the foregoing, Indebtedness shall be deemed not to include: (a) Contingent Obligations incurred in the ordinary course of business and not in respect of borrowed money; (b) prepaid revenues; or (c) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller.

“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.

“Initial Notes” has the meaning assigned to it in the preamble to this Indenture.

“Interest Payment Date” shall have the meaning set forth in the Note.

“Interest Period” shall have the meaning set forth in the Note.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or an equivalent rating by any other rating agency.

“Investments” means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP (excluding the footnotes thereto). If the Issuer or any Subsidiary of the Issuer sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Issuer such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of the Issuer, the Issuer shall be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Issuer’s Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in Section 4.07(c). The acquisition by the Issuer or any Subsidiary of the Issuer of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Issuer or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in Section 4.07(c). Except as otherwise provided in this Indenture, the amount of an Investment shall be determined at the time the Investment is made and without giving effect to subsequent changes in value.

“Issue Date” means October 17, 2007.

“Issuer” has the meaning assigned to it in the preamble to this Indenture.

“Issuer Order” means a written request or order signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer, the principal accounting officer or any vice president of the Issuer, and delivered to the Trustee.

“Legal Holiday” means a Saturday, a Sunday or a day on which banking institutions are not required to be open in the State of New York or at any place of payment.

“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, however, that in no event shall an operating lease be deemed to constitute a Lien.

“Loans” has the meaning set forth in the Senior Interim Loan Credit Agreement.

“Management Agreement” means that Services Agreement by and among certain of the management companies associated with the Sponsors or their advisors, if applicable, and Parent, dated the Acquisition Closing Date.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

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

“Net Proceeds” means the aggregate cash proceeds received by the Issuer or any Restricted Subsidiary in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale), net of (1) the direct costs relating to such Asset Sale and the sale of any Designated Non-cash Consideration, including, without limitation, legal, accounting and investment banking fees, sales commissions, relocation expenses incurred as a result of the Asset Sale, and taxes paid or payable as a result of the Asset Sale after taking into account any available tax credits or deductions and any tax sharing arrangements, (2) amounts required to be applied to the repayment of Indebtedness, other than Indebtedness under a Credit Facility, secured by a Lien on the asset or assets that were the subject of such Asset Sale, and (3) any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

“Non-Recourse Debt” means Indebtedness:

(1) as to which neither the Issuer nor any Restricted Subsidiary (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise or (c) constitutes the lender;

(2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Issuer or any Restricted Subsidiary to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and

(3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Issuer or any Restricted Subsidiary.

“Non-U.S. Person” means a Person who is not a U.S. Person.

“Note Guarantee” means the Guarantee by each Guarantor of the Issuer’s obligations under this Indenture and the Notes, executed pursuant to the provisions of this Indenture.

“Notes” means the Initial Notes and more particularly means any Note (including PIK Notes) authenticated and delivered under this Indenture. For all purposes of this Indenture, the term “Notes” shall also include any Additional Notes that may be issued under a supplemental indenture. The Notes are separate series of Notes, but shall be treated as a single class for all purposes under this Indenture, except as set forth herein. For purposes of this Indenture, all references to Notes to be issued or authenticated upon transfer, replacement or exchange shall be deemed to refer to Notes of the applicable series. For all purposes of this Indenture, all references to “principal amount” of the Notes shall include any PIK Notes issued in respect thereof (and any increase in the principal amount thereof) as a result of a PIK Payment.

“Obligations” means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“Officer” means the Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of the Issuer.

“Officer’s Certificate” means a certificate signed on behalf of the Issuer by an Officer of the Issuer, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Issuer, that meets the requirements of Section 12.04 hereof.

“Opinion of Counsel” means a written opinion from legal counsel that meets the requirements of Section 12.04 hereof. The counsel may be an employee of or counsel to the Issuer or any Subsidiary of the Issuer.

“Parent” means Allison Transmission Holdings, Inc., a Delaware corporation, and its successors.

“Partial PIK Interest” has the meaning set forth in Exhibit A hereto.

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

“Permitted Asset Swap” means the substantially concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Issuer or any of its Restricted Subsidiaries and another Person; provided that any cash or Cash Equivalents received must be applied in accordance with the covenant described under Section 4.10.

“Permitted Business” means the business and any services, activities or businesses incidental or directly related or similar to, any line of business engaged in by the Issuer and its Subsidiaries as of the Issue Date or any business activity that is a reasonable extension, development or expansion thereof or ancillary thereto.

“Permitted Holders” means each of (i) the Sponsors, (ii) only for so long as they collectively hold less than the Sponsors, members of management of the Issuer or its direct or indirect parent companies on the Issue Date who are holders of Equity Interests of the Issuer (or any of its direct or indirect parent companies) and (iii) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided that, in the case of such group and without giving effect to the existence of such group or any other group, such Sponsors, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Issuer or any of its direct or indirect parent companies.

“Permitted Investments” means:

- (1) any Investment by the Issuer or a Restricted Subsidiary of the Issuer in a Restricted Subsidiary of the Issuer;
- (2) any Investment in Cash Equivalents;
- (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 substantially all of its assets to, or is liquidated into, the Issuer or a Restricted Subsidiary of the Issuer;

(4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10;

(5) any Investment solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Issuer;

(6) any Investments received in compromise or resolution of (a) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Issuer or any Restricted Subsidiary, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer or (b) litigation, arbitration or other disputes;

(7) Investments represented by Hedging Obligations;

(8) loans or advances to employees other than executives restricted by the Sarbanes-Oxley Act of 2002 made in the ordinary course of business of the Issuer or any Restricted Subsidiary of the Issuer in an aggregate principal amount not to exceed \$15.0 million at any one time outstanding;

(9) guarantees (including Guarantees) of Indebtedness permitted under Section 4.09 and performance guarantees in the ordinary course of business;

(10) Investments consisting of licensing of intellectual property pursuant to joint marketing arrangements with other Persons;

(11) [intentionally omitted];

(12) 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;

(13) Investments of a Restricted Subsidiary of the Issuer acquired after the Issue Date or of an entity merged into, amalgamated with, or consolidated with a Restricted Subsidiary of the Issuer in a transaction that is not prohibited by Section 5.01 after the Issue Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(14) repurchases of the Notes;

(15) any Investment existing on the Issue Date and any modification, replacement, renewal or extension thereof; provided, however, that the amount of any such Investment may be increased (x) as required by the terms of such Investment as in existence on the Issue Date or (y) as otherwise permitted under this Indenture;

(16) any Investment in a Permitted Business having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (16) that are at that time outstanding, not to exceed \$125.0 million at the time of such Investment

(with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value); and

(17) other Investments in any Person (other than the Issuer or one of its direct or indirect parent companies) having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (17) that are at the time outstanding, not to exceed \$125.0 million.

“Permitted Liens” means:

(1) Liens securing Obligations and Indebtedness under or pursuant to the Credit Facilities incurred and then outstanding permitted by Section 4.09(b) (i);

(2) Liens in favor of the Issuer or the Guarantors;

(3) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Issuer or any Subsidiary of the Issuer; provided that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Issuer or the Subsidiary;

(4) Liens on property (including Capital Stock) existing at the time of acquisition of the property or assets by the Issuer or any Subsidiary of the Issuer; provided that such Liens were in existence prior to, such acquisition, and not incurred in contemplation of, such acquisition;

(5) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by Section 4.09(b)(iv) covering only the assets acquired with or financed by such Indebtedness;

(6) Liens existing on the Issue Date;

(7) Liens created for the benefit of (or to secure) the Notes or the Note Guarantees;

(8) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under this Indenture; provided, however, that:

(a) the new Lien is limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Indebtedness (plus improvements and accessions to such property, or proceeds or distributions thereof); 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 original Indebtedness and (ii) an amount necessary to

pay any fees and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge;

(9) Liens with respect to the assets of a Restricted Subsidiary that is not a Guarantor securing Indebtedness of such Restricted Subsidiary incurred in accordance with Section 4.09(b);

(10) Liens securing Indebtedness or other obligations of a Restricted Subsidiary owing to the Issuer or another Restricted Subsidiary of the Issuer permitted to be Incurred in accordance with Section 4.09(b);

(11) Liens on property or assets used to defease or to satisfy and discharge Indebtedness; provided that such defeasance or satisfaction and discharge is not prohibited by this Indenture;

(12) Liens for taxes, assessments or governmental charges or levies on the property of the Issuer or any Restricted Subsidiary if the same shall not at the time be delinquent or thereafter can be paid without penalty, or are being contested in good faith and by appropriate proceedings promptly instituted and diligently concluded, provided that any reserve or other appropriate provision that shall be required in conformity with GAAP shall have been made therefore;

(13) Liens imposed by law, such as carriers', warehousemen's and mechanics' Liens and other similar Liens, on the property of the Issuer or any Restricted Subsidiary arising in the ordinary course of business and securing payment of obligations that are not more than 60 days past due or are being contested in good faith and by appropriate proceedings;

(14) Liens on the property of the Issuer or any Restricted Subsidiary Incurred in the ordinary course of business to secure performance of obligations with respect to statutory or regulatory requirements, performance or return-of-money bonds, surety bonds or other obligations of a like nature and Incurred in a manner consistent with industry practice, in each case which are not Incurred in connection with the borrowing of money, the obtaining of advances or credit or the payment of the deferred purchase price of property and which do not in the aggregate impair in any material respect the use of property in the operation of the business of the Issuer and the Restricted Subsidiaries taken as a whole;

(15) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws or similar legislation or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case incurred in the ordinary course of business;

(16) minor survey exceptions, minor encumbrances, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and

telephone lines and other similar purposes, or zoning or other restrictions as to the use of real properties or Liens incidental, to the conduct of the business of such Person or to the ownership of its properties which were not incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(17) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(18) leases, subleases, licenses or sublicenses granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Issuer or any of its Restricted Subsidiaries and do not secure any Indebtedness;

(19) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases entered into by the Issuer and its Restricted Subsidiaries in the ordinary course of business;

(20) Liens on accounts receivable and related assets incurred in connection with a receivables facility permitted by Section 4.09(b)(xii);

(21) deposits made in the ordinary course of business to secure liability to insurance carriers;

(22) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation and exportation of goods in the ordinary course of business;

(23) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection; (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business; and (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(24) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness; (ii) relating to pooled deposit or sweep accounts of the Issuer or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Issuer and its Restricted Subsidiaries; or (iii) relating to purchase orders and other agreements entered into with customers of the Issuer or any of its Restricted Subsidiaries in the ordinary course of business; and

(25) Liens securing obligations that do not exceed \$75.0 million at any one time outstanding.

“Permitted Payments to Parent” means, payments (directly or in the form of dividends, loans or otherwise) to, a direct or indirect parent entity of the Issuer in amounts required for such Person to pay:

- (1) franchise taxes and other fees, taxes and expenses required to maintain its corporate existence;
- (2) for so long as the Issuer is a member of a group filing a consolidated or combined tax return such direct or indirect parent entity, an allocable portion of the tax liabilities of such group that is attributable to the Issuer and its Subsidiaries;
- (3) customary salary, bonus, severance and other benefits payable to, and indemnities provided on behalf of, officers and employees of such direct or indirect parent entity of the Issuer to the extent such salaries, bonuses, severance, indemnities and other benefits are attributable to the ownership or operation of the Issuer and its Restricted Subsidiaries;
- (4) payments to the Sponsors and any of their Affiliates for any other financial advisory, financing, underwriting or placement services or in respect of investment banking activities, including, without limitation, in connection with acquisitions or divestitures, which payments are approved by a majority of the disinterested members of the Board of Directors of Parent in good faith;
- (5) general corporate overhead expenses for such direct or indirect parent entity of the Issuer to the extent such expenses are attributable to the ownership or operation of the Issuer and its Restricted Subsidiaries; and
- (6) reasonable fees and expenses incurred in connection with any unsuccessful debt or equity offering by such direct or indirect parent entity of the Issuer.

“Permitted Refinancing Indebtedness” means any Indebtedness of the Issuer or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge other Indebtedness of the Issuer or any Restricted Subsidiary (other than intercompany Indebtedness); provided that:

- (1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);
- (2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged;
- (3) if the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged is subordinated in right of payment to the Notes, such Permitted

Refinancing Indebtedness is subordinated in right of payment to the Notes at least to the same extent as the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged; and

(4) such Indebtedness is incurred either by the Issuer or by the Restricted Subsidiary who is the obligor on the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged.

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

“PIK Interest” has the meaning set forth in Exhibit A hereto.

“PIK Notes” means additional Notes issued under this Indenture on the same terms and conditions as the Notes issued on the Issue Date in connection with a PIK Payment. For purposes of this Indenture, all references to “PIK Notes” shall include the Related PIK Notes.

“PIK Payment” means an interest payment with respect to the Notes made by increasing the outstanding principal amount of the Notes or issuing PIK Notes.

“Preferred Stock”, as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) that is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

“Private Placement Legend” means the legend set forth in Section 2.06(g)(i) hereof to be placed on all Notes issued under this Indenture, except where otherwise permitted by the provisions of this Indenture.

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

“Qualified Proceeds” means the fair market value of assets that are used or useful in, or Capital Stock of any Person engaged in, a Permitted Business; provided, however, that the fair market value of any such assets or Capital Stock shall be determined by the Board of Directors of Parent in good faith.

“Rating Agencies” means Moody’s and S&P.

“Record Date” shall have the meaning set forth in the applicable Note.

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

“Regulation S Global Note” means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as applicable.

“Regulation S Permanent Global Note” means a permanent Global Note in the form of Exhibit A hereto, bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

“Regulation S Temporary Global Note” means a temporary Global Note in the form of Exhibit A hereto, bearing the Global Note Legend, the Private Placement Legend and the Regulation S Temporary Global Note Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903.

“Regulation S Temporary Global Note Legend” means the legend set forth in Section 2.06(g)(iii) hereof.

“Related Business Assets” means assets (other than cash or Cash Equivalents) used or useful in a Permitted Business, provided that any assets received by the Issuer or a Restricted Subsidiary in exchange for assets transferred by the Issuer or a Restricted Subsidiary shall not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person would become a Restricted Subsidiary.

“Related PIK Notes” means, with respect to a Note, (i) each PIK Note issued in connection with a PIK Payment on such Note and (ii) each additional PIK Note issued in connection with a PIK Payment on a Related PIK Note with respect to such Note.

“Responsible Officer” means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Restricted Definitive Note” means a Definitive Note bearing the Private Placement Legend.

“Restricted Global Note” means a Global Note bearing the Private Placement Legend.

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Period” means the 40-day distribution compliance period as defined in Regulation S.

“Restricted Subsidiary” of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

“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.

“SEC” means the U.S. Securities and Exchange Commission.

“S&P” means Standard & Poor’s, a division of The McGraw-Hill Companies, Inc., and any successor to its rating agency business.

“Sale and Lease-Back Transaction” means any arrangement providing for the leasing by the Issuer or any of its Restricted Subsidiaries of any real or tangible personal property, which property has been or is to be sold or transferred by the Issuer or such Restricted Subsidiary to a third Person in contemplation of such leasing.

“Senior Debt” means the principal of, premium, if any, and interest (including any interest accruing after the commencement of any bankruptcy proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed or allowable claim under applicable law) on any Indebtedness, whether outstanding on the Issue Date or thereafter created, incurred or assumed, unless, in the case of any particular obligation, the instrument creating or evidencing the same or pursuant to which the same is outstanding expressly provides that such obligation shall be subordinate or pari passu in right of payment to the notes. Without limiting the generality of the foregoing, “Senior Debt” shall also include the principal of, premium, if any, interest (including any interest accruing after the commencement of any bankruptcy proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed or allowable claim under applicable law) on, and all other amounts owing in respect of (including guarantees of the foregoing obligations):

(1) all monetary obligations of every nature of the Issuer under, or with respect to, the Credit Agreement, including, without limitation, obligations to pay principal, premium and interest, reimbursement obligations under letters of credit, fees, expenses and indemnities (and guarantees thereof); and

(2) all Hedging Obligations (and guarantees thereof),

in each case whether outstanding on the Issue Date or thereafter incurred.

“Senior Interim Loans” means the “Initial Loans” under and as defined in the Senior Interim Loan Credit Agreement.

“Senior Interim Loan Credit Agreement” means that certain Senior Interim Loan Credit Agreement, dated as of the Acquisition Closing Date, by and among the Issuer and Citigroup Global Markets Inc., Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated as joint-lead arrangers and joint bookrunners, Citicorp North America, Inc., as administrative agent, Lehman Brothers Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as syndication agents, including any related notes, Guarantees, instruments and agreements executed in connection therewith, and, in each case, as amended, restated, modified,

renewed, refunded, replaced (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.

“Shareholders Agreement” means the Shareholders Agreement among Parent and the shareholders of Parent, as in effect on the Acquisition Closing Date.

“Significant Subsidiary” means any Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Act, as such Regulation is in effect on the Issue Date.

“Sponsors” means one or more investments funds controlled by TC Group, L.L.C. or Onex Partners II L.P. and their respective Affiliates.

“Stated Maturity” means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the Issue Date, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

“Subordinated Indebtedness” means (a) with respect to the Issuer, any Indebtedness of the Issuer that is by its terms subordinated in right of payment to the Notes and (b) with respect to any Guarantor, any Indebtedness of such Guarantor that is by its terms subordinated in right of payment to its Note Guarantee.

“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 and after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that 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 that Person or one or more Subsidiaries of that Person (or any combination thereof).

“Total Assets” means the total assets of the Issuer and its Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Issuer or such other Person as may be expressly stated.

“Transactions” means the Acquisition and the transactions related thereto, including borrowings made pursuant to the Credit Agreement and the Senior Interim Loan Credit Agreement.

“Treasury Rate” has the meaning set forth in Exhibit A hereto.

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

“Unrestricted Definitive Note” means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

“Unrestricted Global Note” means a permanent Global Note, substantially in the form of Exhibit A attached hereto, that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, and that is deposited with or on behalf of and registered in the name of the Depository, representing Notes that do not bear the Private Placement Legend.

“Unrestricted Subsidiary” means any Subsidiary of the Issuer that is designated by the Board of Directors of Parent as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors, but only to the extent that such Subsidiary:

- (1) has no Indebtedness other than Non-Recourse Debt;
- (2) except as permitted by Section 4.11, is not party to any agreement, contract, arrangement or understanding with the Issuer or any Restricted Subsidiary of the Issuer unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Issuer or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Issuer;
- (3) is a Person with respect to which neither the Issuer nor any Restricted Subsidiary has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person’s financial condition or to cause such Person to achieve any specified levels of operating results; and
- (4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Issuer or any Restricted Subsidiary.

“U.S. Person” means a U.S. person as defined in Rule 902(k) under the Securities Act.

“Voting Stock” of any specified 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 at any date, the number of years obtained by dividing:

- (1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the

number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

(2) the then outstanding principal amount of such Indebtedness.

Section 1.02. Other Definitions

<u>Term</u>	<u>Defined in Section</u>
“Acceptable Commitment”	4.10
“Affiliate Transaction”	4.11
“Asset Sale Offer”	4.10
“Authentication Order”	2.02
“Calculation Date”	1.01
“Change of Control Offer”	4.14
“Change of Control Payment”	4.14
“Change of Control Payment Date”	4.14
“Covenant Defeasance”	8.03
“DTC”	2.03
“Event of Default”	6.01
“Excess Proceeds”	4.10
“incur”	4.09
“Legal Defeasance”	8.02
“Offer Amount”	3.09
“Offer Period”	3.09
“Paying Agent”	2.03
“Permitted Debt”	4.09
“Purchase Date”	3.09
“Registrar”	2.03
“Restricted Payments”	4.07
“Second Commitment”	4.10
“Successor Company”	5.01
“Suspended Covenants”	4.19

Section 1.03. 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) words in the singular include the plural, and in the plural include the singular;

- (e) “will” shall be interpreted to express a command;
- (f) provisions apply to successive events and transactions;
- (g) references to sections of, or rules under, the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;
- (h) unless the context otherwise requires, any reference to an “Article,” “Section” or “clause” refers to an Article, Section or clause, as the case may be, of this Indenture; and
- (i) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not any particular Article, Section, clause or other subdivision.

#### Section 1.04. 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 Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Proof of execution of any such instrument or of a writing appointing any such agent, or the holding by any Person of a Note, shall be sufficient for any purpose of this Indenture and (subject to Section 7.01) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Section 1.04.

(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 the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the Person executing the same. 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 that the Trustee deems sufficient.

(c) The ownership of Notes shall be proved by the Register maintained by the Registrar.

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

(e) The Issuer may set a record date for purposes of determining the identity of Holders entitled to give any request, demand, authorization, direction, notice, consent, waiver or take any other act, or to vote or consent to any action by vote or consent authorized or permitted to be given or taken by Holders. Unless otherwise specified, if not set by the Issuer prior to the first solicitation of a Holder made by any Person in respect of any such action, or in the case of any such vote, prior to such vote, any such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders furnished to the Trustee prior to such solicitation.

(f) Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Note may do so 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. Any notice given or action taken by a Holder or its agents with regard to different parts of such principal amount pursuant to this paragraph shall have the same effect as if given or taken by separate Holders of each such different part.

(g) Without limiting the generality of the foregoing, a Holder, including DTC that is the Holder of a Global Note, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders, and DTC that is the Holder of a Global Note may provide its proxy or proxies to the beneficial owners of interests in any such Global Note through such depository's standing instructions and customary practices.

(h) The Issuer may fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any Global Note held by DTC entitled under the procedures of such depository to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such Persons, shall be entitled to make, give or take such request, demand, authorization, direction, notice, consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction, notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 90 days after such record date.

## ARTICLE 2

### THE NOTES

#### Section 2.01. Form and Dating; Terms.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rules or usage. Each Note shall be dated the date of its authentication. Other than increases in the principal amount of Notes in respect of PIK Interest, the Notes shall be in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The amount of Notes which may be issued under this Indenture is unlimited.

(b) **Global Notes.** Notes issued in global form shall 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 shall 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). Each Global Note shall represent such of the outstanding Notes as shall be specified in the “Schedule of Exchanges of Interests in the Global Note” attached thereto and each shall provide that it shall represent up to the aggregate principal amount of 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 applicable, 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 the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) **Temporary Global Notes.** Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Temporary Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as custodian for the Depository, and registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear or Clearstream, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. Upon the termination of the Restricted Period and:

(i) receipt by the Issuer of a written certificate from the Depository, together with copies of certificates from Euroclear and Clearstream certifying that they have received certification of non-United States beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who shall take delivery of a beneficial ownership interest in a 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.06(b) hereof); and

(ii) following such receipt, delivery of an Officer’s Certificate to the Trustee;

beneficial interests in the Regulation S Temporary Global Note shall be exchanged for beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures. Simultaneously with the authentication of the Regulation S Permanent Global Note, the Trustee shall cancel the Regulation S Temporary Global Note. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(d) **Terms.** 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.

Additional Notes ranking *pari passu* with the Initial Notes may be created and issued from time to time by the Issuer without notice to or consent of the Holders and shall be consolidated with and form a single class with the Initial Notes and shall have the same terms as to status, redemption or otherwise as the Initial Notes; provided that the Issuer's ability to issue Additional Notes shall be subject to the Issuer's compliance with Section 4.09 hereof. In addition, in connection with the payment of PIK Interest or Partial PIK Interest in respect of the Notes, the Issuer is entitled to, without the consent of the Holders, and without regard to Section 4.09, increase the outstanding principal amount of the Notes or issue the PIK Notes under this Indenture on the same terms and conditions as the Notes offered hereby. Except as described under Article 9 hereof, the Notes offered by the Issuer, the PIK Notes and any Additional Notes subsequently issued under this Indenture will be treated as a single class for all purposes under this Indenture, including waivers, amendments, redemptions and offers to purchase. Unless the context requires otherwise, references to the "Notes" for all purposes of this Indenture include any PIK Notes and Additional Notes that are actually issued, and references to "principal amount" of the Notes includes any increase in the principal amount of the outstanding Notes as a result of a PIK Payment. Any Additional Notes shall be issued with the benefit of an indenture supplemental to this Indenture.

#### Section 2.02. Execution and Authentication

At least one Officer shall execute the Notes on behalf of the Issuer by manual or facsimile signature.

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

A Note shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated substantially in the form of Exhibit A attached hereto, as the case may be, by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been duly authenticated and delivered under this Indenture.

On the Issue Date, the Trustee shall, upon receipt of an Issuer Order (an "Authentication Order"), authenticate and deliver the Initial Notes. In addition, at any time, from time to time, the Trustee shall upon an Authentication Order authenticate and deliver any (i) Additional Notes and (ii) any PIK Notes issued in payment of PIK Interest or Partial PIK Interest. Such Authentication Order shall specify the amount of the Notes to be authenticated and, in the case of any issuance of Additional Notes pursuant to Section 2.01 hereof, shall certify that such issuance is in compliance with Section 4.09 of this Indenture. On any Interest Payment Date on which the Issuer pays PIK Interest and Partial PIK Interest with respect to a Global Note, the Trustee shall increase the principal amount of such Global Note by an amount equal to the interest payable, rounded up to the nearest \$1.00, for the relevant Interest Period on the principal amount of such Global Note as of the relevant Record Date for such Interest Payment Date, to the credit of the Holders on such Record Date, pro rata to the nearest \$1.00 in

accordance with their interests, and an adjustment shall be made on the books and records of the Trustee (if it is then the Custodian of such Global Note) with respect to such Global Note, by the Trustee or the Custodian, to reflect such increase. On any Interest Payment Date on which the Issuer pays PIK Interest or Partial PIK Interest by issuing definitive PIK Notes, the principal amount of any such PIK Notes issued to any Holder, for the relevant Interest Period as of the relevant Record Date for such Interest Payment Date, shall be rounded up to the nearest \$1.00.

The Trustee may appoint an authenticating agent acceptable to the Issuer to authenticate Notes. 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 an Agent to deal with Holders or an Affiliate of the Issuer.

#### Section 2.03. Registrar and Paying Agent

The Issuer shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange (“Registrar”) and an office or agency where Notes may be presented for payment (“Paying Agent”). The Issuer may appoint one or more co-registrars and one or more additional paying agents. The term “Registrar” includes any co-registrar and the term “Paying Agent” includes any additional paying agent. The Issuer may change any Paying Agent or Registrar without prior notice to any Holder. The Issuer shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Issuer fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Issuer or any of its Subsidiaries may act as Paying Agent or Registrar.

The Issuer initially appoints The Depository Trust Company (“DTC”) to act as Depository with respect to the Global Notes.

The Issuer initially appoints the Trustee to act as the Paying Agent and Registrar for the Notes and to act as Custodian with respect to the Global Notes.

#### Section 2.04. Paying Agent to Hold Money in Trust

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 assets held by the Paying Agent for the payment of principal, premium, if any, or interest on the Notes, and will 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. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Issuer or a Subsidiary) shall have no further liability for the money. If the Issuer or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Issuer, the Trustee shall serve as Paying Agent for the Notes.

#### Section 2.05. 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 all Holders. If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee at least two Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes.

Section 2.06. Transfer and Exchange Transfer and Exchange of Global Notes.

(a) Except as otherwise set forth in this Section 2.06, a Global Note may be transferred, in whole and not in part, only to another nominee of the Depositary or to a successor Depositary or a nominee of such successor Depositary. A beneficial interest in a Global Note may not be exchanged for a Definitive Note unless (i) the Depositary (x) notifies the Issuer that it is unwilling or unable to continue as Depositary for such Global Note or (y) has ceased to be a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Issuer within 120 days, (ii) the Issuer in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; provided that in no event shall the Regulation S Temporary Global Note be exchanged by the Issuer for Definitive Notes prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) under the Securities Act or (iii) there shall have occurred and be continuing a Default with respect to the Notes. Upon the occurrence of any of the preceding events in (i), (ii) or (iii) above, Definitive Notes delivered in exchange for any Global Note or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depositary (in accordance with its customary procedures). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, 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 2.06(a); provided, however, that beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, 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 Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Temporary 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). Beneficial interests in any 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 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) hereof, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository 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 containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository 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 Depository 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 (1) above; provided that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any 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 2.06(b)(ii) hereof and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; or

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon the occurrence of any of the events in Section 2.06(a)(i) or (ii) hereof and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Issuer shall execute and the Trustee shall authenticate and mail to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall mail such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes. Notwithstanding Sections 2.06(c)(i)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or transferred

to a Person who takes delivery thereof in the form of a Definitive Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) of the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such 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 Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(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, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(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, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the applicable Restricted Global Note, in the case of clause (B) above, the applicable 144A Global Note, and in the case of clause (C) above, the applicable Regulation S 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

2.06(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 2.06(e):

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(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 B hereto, including the certifications in item (2) thereof; or

(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 B hereto, including the certifications required by item (3) thereof, if applicable.

(f) [Intentionally Omitted].

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture:

(i) Private Placement Legend. Each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

“THIS NOTE (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”). THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT, AND ACCORDINGLY, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER, OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF, THE SECURITIES ACT, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER JURISDICTION AND IN

ACCORDANCE WITH TRANSFER RESTRICTIONS CONTAINED IN THE INDENTURE UNDER WHICH THIS NOTE WAS ISSUED. THE HOLDER OF THE NOTE WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY A PROPOSED TRANSFEREE OF THE NOTICE OF THE RESALE RESTRICTIONS APPLICABLE TO THE NOTE. THIS SECURITY MAY NOT BE ACQUIRED OR HELD WITH THE ASSETS OF (I) AN "EMPLOYEE BENEFIT PLAN" (AS DEFINED IN THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA")) THAT IS SUBJECT TO ERISA, (II) A "PLAN" DESCRIBED IN SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"), (III) ANY ENTITY DEEMED TO HOLD "PLAN ASSETS" OF ANY OF THE FOREGOING BY REASON OF AN EMPLOYEE BENEFIT PLAN'S OR PLAN'S INVESTMENT IN SUCH ENTITY, OR (IV) A GOVERNMENTAL PLAN OR CHURCH PLAN SUBJECT TO APPLICABLE LAW THAT IS SUBSTANTIALLY SIMILAR TO THE FIDUCIARY RESPONSIBILITY OR PROHIBITED TRANSACTION PROVISIONS OF ERISA OR SECTION 4975 OF THE CODE ("SIMILAR LAW"), UNLESS THE ACQUISITION AND HOLDING OF THIS SECURITY BY THE PURCHASER OR TRANSFEREE, THROUGHOUT THE PERIOD THAT IT HOLDS THIS SECURITY, ARE EXEMPT FROM THE PROHIBITED TRANSACTION RESTRICTIONS UNDER ERISA AND SECTION 4975 OF THE CODE OR ANY PROVISIONS OF SIMILAR LAW, AS APPLICABLE, PURSUANT TO ONE OR MORE PROHIBITED TRANSACTION STATUTORY OR ADMINISTRATIVE EXEMPTIONS. BY ITS ACQUISITION OR HOLDING OF THIS SECURITY, EACH PURCHASER AND TRANSFEREE WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT THE FOREGOING REQUIREMENTS HAVE BEEN SATISFIED."

(ii) Global Note Legend. Each Global Note shall bear a 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 2.06(h) OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF 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. UNLESS AND UNTIL IT IS

EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”) TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

(iii) Regulation S Temporary Global Note Legend. The Regulation S Temporary Global Note shall bear a legend in substantially the following form:

“EXCEPT AS SET FORTH BELOW, BENEFICIAL OWNERSHIP INTERESTS IN THIS REGULATION S TEMPORARY GLOBAL NOTE WILL NOT BE EXCHANGEABLE FOR INTERESTS IN THE REGULATION S PERMANENT GLOBAL NOTE OR ANY OTHER NOTE REPRESENTING AN INTEREST IN THE NOTES REPRESENTED HEREBY WHICH DO NOT CONTAIN A LEGEND CONTAINING RESTRICTIONS ON TRANSFER, UNTIL THE EXPIRATION OF THE “40-DAY DISTRIBUTION COMPLIANCE PERIOD” (WITHIN THE MEANING OF RULE 903(B)(2) OF REGULATION S UNDER THE SECURITIES ACT) AND THEN ONLY UPON CERTIFICATION IN FORM REASONABLY SATISFACTORY TO THE TRUSTEE THAT SUCH BENEFICIAL INTERESTS ARE OWNED EITHER BY NON-U.S. PERSONS OR U.S. PERSONS WHO PURCHASED SUCH INTERESTS IN A TRANSACTION THAT DID NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT. DURING SUCH 40-DAY DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL OWNERSHIP IN THIS REGULATION S TEMPORARY GLOBAL NOTE MAY ONLY BE SOLD, PLEDGED OR TRANSFERRED THROUGH EUROCLEAR SYSTEM OR CLEARSTREAM LUXEMBOURG, A SOCIETE ANONYME AND ONLY (1) TO THE COMPANY, (2) WITHIN THE UNITED STATES TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (3) OUTSIDE THE UNITED STATES IN A TRANSACTION IN ACCORDANCE WITH RULE 904 UNDER THE SECURITIES ACT OR (4)

PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH OF THE CASES (1) THROUGH (4) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND OTHER JURISDICTIONS. HOLDERS OF INTERESTS IN THIS REGULATION S TEMPORARY GLOBAL NOTE WILL NOTIFY ANY PURCHASER OF THIS NOTE OF THE RESALE RESTRICTIONS REFERRED TO ABOVE, IF THEN APPLICABLE.

BENEFICIAL INTERESTS IN THIS REGULATION S TEMPORARY GLOBAL NOTE MAY BE EXCHANGED FOR INTERESTS IN A RESTRICTED GLOBAL NOTE ONLY IF (1) SUCH EXCHANGE OCCURS IN CONNECTION WITH A TRANSFER OF THE NOTES IN COMPLIANCE WITH RULE 144A, AND (2) THE TRANSFEROR OF THE REGULATION S TEMPORARY GLOBAL NOTE FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT THE REGULATION S GLOBAL NOTE IS BEING TRANSFERRED (A) TO A PERSON WHO THE TRANSFEROR REASONABLY BELIEVES TO BE A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A, (B) TO A PERSON WHO IS PURCHASING FOR ITS OWN ACCOUNT OR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A AND (C) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

BENEFICIAL INTERESTS IN A GLOBAL TRANSFER RESTRICTED NOTE MAY BE TRANSFERRED TO A PERSON WHO TAKES DELIVERY IN THE FORM OF AN INTEREST IN THE REGULATION S GLOBAL NOTE, WHETHER BEFORE OR AFTER THE EXPIRATION OF THE 40-DAY DISTRIBUTION COMPLIANCE PERIOD, ONLY IF THE TRANSFEROR FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT IF SUCH TRANSFER IS BEING MADE IN ACCORDANCE WITH RULE 903 OR 904 OF REGULATION S OR RULE 144 (IF AVAILABLE) AND THAT, IF SUCH TRANSFER OCCURS PRIOR TO THE EXPIRATION OF THE 40-DAY DISTRIBUTION COMPLIANCE PERIOD, THE INTEREST TRANSFERRED WILL BE HELD IMMEDIATELY THEREAFTER THROUGH EUROCLEAR SYSTEM OR CLEARSTREAM LUXEMBOURG, A SOCIETE ANONYME.”

(h) Cancellation and/or Adjustment of Global Notes. 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 hereof. 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.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 hereof or at the Registrar's request.

(ii) 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 or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.07, 2.10, 3.06, 3.09, 4.10, 4.14 and 9.05 hereof).

(iii) Neither the Registrar nor the Issuer shall be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Issuer shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a Record Date and the next succeeding Interest Payment Date.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

(vii) Upon surrender for registration of transfer of any Note at the office or agency of the Issuer designated pursuant to Section 4.02 hereof, the Issuer shall execute, and the Trustee shall authenticate and mail, in the name of the designated transferee or transferees, one or more replacement Notes of any authorized denomination or denominations of a like aggregate principal amount.

(viii) At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations of a like aggregate principal amount upon surrender of the Notes to be exchanged at such office or agency. Whenever any Global Notes or Definitive Notes are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and mail, the replacement Global Notes and Definitive Notes which the Holder making the exchange is entitled to in accordance with the provisions of Section 2.02 hereof.

(ix) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

(x) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depository Participants or beneficial owners of interests 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, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

#### Section 2.07. Replacement Notes

If any mutilated Note is surrendered to the Trustee, the Registrar or the Issuer and the Trustee receives evidence to its satisfaction of the ownership and destruction, loss or theft of any Note, the Issuer shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Issuer, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Issuer to protect the Issuer, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Issuer may charge for its expenses in replacing a Note.

Every replacement Note is a contractual 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.

#### Section 2.08. Outstanding Notes

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, 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 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a bona fide purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Issuer, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

Section 2.09. Treasury Notes

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, or by any Affiliate of the Issuer, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned shall be so disregarded. Notes so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to deliver any such direction, waiver or consent with respect to the Notes and that the pledgee is not the Issuer or any obligor upon the Notes or any Affiliate of the Issuer or of such other obligor.

Section 2.10. Temporary Notes

Until certificates representing Notes are ready for delivery, the Issuer may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Issuer considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Issuer shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes.

Holders and beneficial holders, as the case may be, of temporary Notes shall be entitled to all of the benefits accorded to Holders, or beneficial holders, respectively, of Notes under this Indenture.

### Section 2.11. Cancellation

The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee or, at the direction of the Trustee, the Registrar or the Paying Agent and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall dispose of such cancelled Notes in accordance with its customary procedures (subject to the record retention requirement of the Exchange Act). Certification of the cancellation of all cancelled Notes shall be delivered to the Issuer. The Issuer may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

### Section 2.12. Defaulted Interest

If the Issuer defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest 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 hereof. The Issuer shall notify the Trustee in writing in the form of an Officer's Certificate of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.12. The Trustee 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. The Trustee shall promptly notify the Issuer of such special record date. 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, first-class postage prepaid, to each Holder a notice at his or her address as it appears in the register maintained by the Registrar that states the special record date, the related payment date and the amount of such interest to be paid.

Subject to the foregoing provisions of this Section 2.12 and for greater certainty, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

### Section 2.13. CUSIP Numbers

The Issuer in issuing the Notes may use CUSIP numbers (if then generally in use) and, if so, the Trustee shall use CUSIP numbers in notices of redemption as a convenience to Holders; provided, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such

numbers. The Issuer shall as promptly as practicable notify the Trustee of any change in the CUSIP numbers.

### ARTICLE 3

#### REDEMPTION

##### Section 3.01. Notices to Trustee

If the Issuer elects to redeem the Notes pursuant to Section 3.07 hereof, it shall furnish to the Trustee, at least 10 Business Days before notice of redemption is required to be mailed or caused to be mailed to Holders pursuant to Section 3.03 hereof but not more than 60 days before a redemption date, an Officer's Certificate complying with the applicable provisions of Section 12.04 setting forth (i) the paragraph or subparagraph of such Note and/or Section of this Indenture pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount of the Notes, as the case may be, to be redeemed, (iv) the redemption price and (v) the CUSIP number, if any. Any optional redemption referenced in such Officer's Certificate may be cancelled by the Issuer at any time prior to a notice of redemption being mailed to any Holder and, thereafter, shall be null and void.

##### Section 3.02. Selection of Notes to Be Redeemed or Purchased.

If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee shall select the Notes to be redeemed or purchased on a pro rata basis or, to the extent that selection on a pro rata basis is not practicable, by lot or by such other method as the Trustee reasonably considers fair and appropriate unless otherwise provided by law or applicable stock exchange requirements; *provided* that no partial redemption will reduce the principal amount of a Note not redeemed to be less than \$2,000.

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

##### Section 3.03. Notice of Redemption or Repurchase

Subject to Section 3.09 hereof, the Issuer shall mail or cause to be mailed by first-class mail notices of redemption or repurchase at least 10 days but not more than 60 days before the redemption or repurchase date to each Holder of Notes to be redeemed or repurchased at such Holder's registered address, except that redemption or repurchase notices may be mailed more than 60 days prior to a redemption or repurchase date if the notice is issued in connection with Article 8 or Article 11 hereof. Notices of redemption may be conditional. Failure to give

notice of redemption, or any defect therein to any Holder of any Note selected for redemption shall not impair or affect the validity of the redemption of any other Note.

The notice shall identify the Notes to be redeemed and shall state:

(a) the redemption or repurchase date;

(b) the redemption or repurchase price;

(c) if any Note is to be redeemed or repurchased in part only, the portion of the principal amount of that Note that is to be redeemed or repurchased and that, after the redemption or repurchase date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed unpurchased portion of the original Note representing the same indebtedness to the extent not redeemed or repurchased will be issued in the name of the Holder of the Notes (unless such unredeemed or unredeemed portion is equal to or less than \$2,000 in principal amount) or transferred by book entry upon cancellation of the original Note;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption or repurchase must be surrendered to the Paying Agent to collect the redemption or repurchase price;

(f) that, unless the Issuer defaults in making such redemption payment, and interest on Notes called for redemption or repurchase ceases to accrue on and after the redemption or repurchase date;

(g) the paragraph or subparagraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption or repurchase are being redeemed or repurchased, as applicable;

(h) the CUSIP number, if any, and the statement that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes; and

(i) any condition to such redemption or repurchase.

At the Issuer's request, the Trustee shall give the notice of redemption in the Issuer's name and at its expense; provided that the Issuer shall have delivered to the Trustee, at least 10 Business Days before notice of redemption is required to be mailed or caused to be mailed to Holders pursuant to this Section 3.03 (unless a shorter notice shall be agreed to by the Trustee), an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

#### Section 3.04. Effect of Notice of Redemption

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price (except as provided for in the applicable Note). The notice, if mailed in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or any defect in the notice to the Holder of any Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Subject to Section 3.05 hereof, on and after the redemption date, interest ceases to accrue on Notes or portions of Notes called for redemption.

#### Section 3.05. Deposit of Redemption or Purchase Price

Prior to 12:00 p.m. (New York City time) on the redemption or purchase date, the Issuer shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of and accrued and unpaid interest on all Notes (or a portion thereof) to be redeemed or purchased on that date. The Trustee or the Paying Agent shall promptly, and in any event within two Business Days after the redemption or repurchase date, return to the Issuer any money deposited with the Trustee or 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 or purchased.

If the Issuer complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption or purchase whether or not such Notes are presented for payment. If a Note is redeemed or purchased on or after a Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest to the redemption or purchase date 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 or purchase shall not be so paid upon surrender for redemption or purchase because of the failure of the Issuer to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest accrued to the redemption or purchase date not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

#### Section 3.06. Notes Redeemed or Purchased in Part

Upon surrender and cancellation of a Note that is redeemed or purchased in part, the Issuer shall issue and the Trustee shall authenticate for the Holder at the expense of the Issuer a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered representing the same indebtedness to the extent not redeemed or purchased; provided that each new Note will be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof.

#### Section 3.07. Optional Redemption

The Issuer may redeem the Notes in accordance with the provisions of the Note, as set forth in Exhibit A hereto. Notwithstanding anything to the contrary contained herein or in the applicable Note, notice of any redemption upon any Equity Offering or other corporate transaction may be given prior to the completion thereof, 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, completion of the related Equity Offering or related corporate transaction.

Section 3.08. Mandatory Redemption

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

Section 3.09. Offers to Repurchase by Application of Excess Proceeds

(a) In the event that, pursuant to Section 4.10 hereof, the Issuer shall be required to commence an Asset Sale Offer, it shall follow the procedures specified below.

(b) The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Issuer shall apply all Excess Proceeds (the "Offer Amount") to the purchase of Notes and, if required, pari passu Indebtedness (on a pro rata basis, if applicable), or, if less than the Offer Amount has been tendered, all Notes and pari passu Indebtedness tendered in response to the Asset Sale Offer. Payment for any Notes so purchased shall be made in the same manner as interest payments are made.

(c) If the Purchase Date is on or after a Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest up to but excluding the Purchase Date, 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 Asset Sale Offer.

(d) Upon the commencement of an Asset Sale Offer, the Issuer shall send, by first-class mail, a notice to 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 Asset Sale Offer. The Asset Sale Offer shall be made to all Holders and holders of pari passu Indebtedness. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

- (i) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale 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 accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest on and after the Purchase Date;

(v) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in denominations of \$2,000 or integral multiples of \$1,000 in excess thereof only;

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

(vii) that Holders shall be entitled to withdraw their election if the Issuer, the Depositary or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a 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 principal amount of Notes and pari passu Indebtedness surrendered by the holders thereof exceeds the Offer Amount, the Trustee shall select the Notes and the applicable Person (but not the Trustee) shall select such pari passu Indebtedness to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or, for purposes of such applicable Person's selection (but not the Trustee), such pari passu Indebtedness tendered (with such adjustments as may be deemed appropriate by the Trustee, in the case of the Notes, and by the applicable Person (but not the Trustee), in the case of pari passu Indebtedness, 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 (to the extent that such unpurchased portion equals to \$2,000 in principal amount or an integral multiples of \$1,000 in excess thereof) portion of the Notes surrendered (or transferred by book-entry transfer) representing the same indebtedness to the extent not repurchased.

(e) On or before the Purchase Date, the Issuer shall, to the extent lawful, (1) accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof validly tendered and not withdrawn pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes promptly tendered and not withdrawn and (2) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof so tendered.

(f) The Issuer, the Depositary or the Paying Agent, as the case may be, shall promptly mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes properly tendered and not withdrawn by such Holder and accepted by the Issuer for

purchase, and the Issuer shall promptly issue a new Note, and the Trustee, upon receipt of an Authentication Order, shall authenticate and mail or deliver (or cause to be transferred by book-entry) such new Note to such Holder in a principal amount equal to any unpurchased portion of the Note surrendered representing the same indebtedness to the extent not repurchased; provided that each such new Note shall be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof, provided, further, that if PIK Notes issued as a result of a PIK Payment, the principal amount of such unpurchased portion may equal a minimum of \$1.00 or an integral multiple with respect to the Notes of \$1.00. Any Note not so accepted shall be promptly mailed or delivered by the Issuer to the Holder thereof. The Issuer shall publicly announce the results of the Asset Sale Offer on or as soon as practicable after the Purchase Date.

Other than as specifically provided in this Section 3.09 or Section 4.10 hereof, any purchase pursuant to this Section 3.09 shall be made pursuant to the applicable provisions of Sections 3.01 through 3.06 hereof.

#### ARTICLE 4

#### COVENANTS

##### Section 4.01. Payment of Notes

The Issuer shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Issuer or a Subsidiary, holds as of 12:00 p.m. Eastern Time on the due date money deposited by the Issuer in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest, other than PIK Interest or Partial PIK Interest, then due. Such Paying Agent shall return to the Issuer promptly, and in any event, no later than two Business Days following the date of payment, any money (including accrued interest, if any) that exceeds such amount of principal, premium, if any, and interest paid on the Notes. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

The Issuer shall make any payments of PIK Interest or Partial PIK Interest in respect of Notes represented by Global Notes by increasing the principal amount of such Global Notes for the benefit of the accounts of Participants specified by the DTC or its nominee. The Issuer shall make any payments of PIK Interest or Partial PIK Interest in respect of Notes represented by Definitive Notes by issuing PIK Notes in additional Notes in the form of Definitive Notes and delivering them to holders.

The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

Section 4.02. Maintenance of Office or Agency.

The Issuer shall maintain the office required under Section 2.03 (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where the Notes may be presented or 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.

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. 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.

The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer in accordance with Section 2.03 hereof.

Section 4.03. Reports

(a) Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Issuer shall furnish to the Holders of Notes and the Trustee:

(i) within 45 days after the end of each of the first three fiscal quarters of each fiscal year (other than the first fiscal quarter following the Acquisition Closing Date which may be delivered within 90 days after the end of such quarter), in the case of quarterly financial information, and 90 days after the end of each fiscal year, in the case of annual financial information, and all quarterly and annual financial information that would be required to be filed with the SEC on Forms 10-Q and 10-K if the Issuer were required to file such reports, including "Management's Discussion and Analysis of Financial Condition and Results of Operations," and, with respect to the annual financial information only, a report on the annual financial statements by the Issuer's certified independent accountants; and

(ii) promptly from time to time after the occurrence of an event required to be therein reported, such other reports containing substantially the same information required to be contained in a Current Report on Form 8-K under the Exchange Act; provided, however, that no such report shall be required to be furnished if the Issuer determines in its good faith judgment that such event is not material to the Holders of the Notes or the business, assets, operations, financial positions or prospects of the Issuer and its Restricted Subsidiaries.

provided, however, that (a) such reports will not be required to comply with or contain any certifications or reports required by Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 and 308 of Regulation S-K promulgated by the SEC, or in each case any successor provisions, (b) such reports will not be required to contain the separate financial information for Guarantors or Subsidiaries whose securities are pledged to secure the Notes contemplated by Rule 3-10 or Rule 3-16 of Regulation S-K promulgated by the SEC (c) such reports shall not be required to comply with Regulation G under the Exchange Act or Item 10(e) of Regulation S-K promulgated by the SEC with respect to any non-GAAP financial measures contained therein, (d) to the extent pro forma financial information regarding the Transactions is required to be provided by the Issuer, the Issuer may provide only pro forma revenues, senior secured debt, total debt and capital expenditures in lieu thereof, and (e) such reports shall not be required to present compensation or beneficial ownership information.

(b) The Issuer shall (1) distribute such reports and information electronically to the Trustee and (2) make available such reports and information to any Holder of Notes, any prospective investor, any security analyst or any market maker by posting such reports and information on Intralinks or any comparable password protected online data system, which will require a confidentiality acknowledgement; provided that the Issuer shall make readily available any password or other login information to any such Holder of Notes, prospective investor, security analyst or market maker. The Issuer shall use its commercially reasonable efforts, consistent with its judgment as to what is prudent at the time, to participate in quarterly conference calls to discuss operating results and related matters. The Issuer shall issue a press release, which will provide the date and time of any such call and will direct Holders of Notes, prospective investors and securities analysts to contact the investor relations office of the Issuer to obtain access to the conference call.

(c) If the Issuer has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by this Section 4.03 shall include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in "Management's Discussion and Analysis of Financial Condition and Results of Operations," of the financial condition and results of operations of the Issuer and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Issuer.

(d) In the event that any direct or indirect parent company of the Issuer is or becomes a Guarantor of the Notes, this Indenture will permit the Issuer to satisfy its obligations in this Section 4.03 with respect to financial information relating to the Issuer by furnishing financial information relating to such direct or indirect parent company; provided, however, that the same is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such direct or indirect parent company 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.

#### Section 4.04. Compliance Certificate

(a) The Issuer and each Guarantor (to the extent that such Guarantor would be so required under the Trust Indenture Act if this Indenture were qualified thereunder) shall deliver to the Trustee, within 90 days after the end of each fiscal year of the Issuer ending after the date of this Indenture, a certificate from the principal executive officer, principal financial officer or principal accounting officer stating that, as to such Officer signing such certificate, that to the best of his or her knowledge the Issuer has performed each and every covenant contained in this Indenture that is applicable to it in all material respects and is not in default in the performance or observance of any of the terms, provisions, covenants and conditions of this Indenture (or, if a Default shall have occurred, describing all such Defaults of which he or she may have knowledge and what action the Issuer is taking or proposes to take with respect thereto).

(b) When any Default has occurred and is continuing under this Indenture, or if the Trustee or the holder of any other evidence of Indebtedness of the Issuer or any Subsidiary gives any notice or takes any other action with respect to a claimed Default, the Issuer shall promptly (which shall be no more than ten (10) Business Days) deliver to the Trustee by registered or certified mail or by facsimile transmission an Officer's Certificate specifying such event and what action the Issuer proposes to take with respect thereto.

#### Section 4.05. Taxes

The Issuer shall pay, and shall cause each of its Restricted Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate negotiations or proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

#### Section 4.06. Stay, Extension and Usury Laws

The Issuer and each of the Guarantors covenant (to the extent that they may lawfully do so) that they 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 of the Guarantors (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law, and covenant that they 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 4.07. Restricted Payments

(a) The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly:

(i) declare or pay any dividend or make any other distribution on account of the Issuer's Equity Interests or the Equity Interests of any of the Issuer's Restricted Subsidiaries (including any dividend or distribution payable in connection with any merger or consolidation involving the Issuer) other than dividends or distributions payable in Equity Interests (other than Disqualified Stock);

(ii) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Issuer) any Equity Interests of the Issuer or any of its Restricted Subsidiaries or any direct or indirect parent of the Issuer (but excluding any such Equity Interests held by the Issuer or a Restricted Subsidiary);

(iii) make any principal payment on, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee in each case prior to any scheduled repayment sinking fund payment, principal installment or Stated Maturity thereof (other than (x) Indebtedness permitted under clauses (vi) and (vii) of the definition of "Permitted Debt" or (y) the purchase, repurchase or other acquisition or retirement of Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of the purchase, repurchase, acquisition or retirement); or

(iv) make any Restricted Investment

(all such payments and other actions set forth 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 of such Restricted Payment;

(2) the Issuer would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a); and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer and its Restricted Subsidiaries since the Acquisition Closing Date (excluding Restricted Payments permitted by clauses (ii) through (vi), (viii) and (x) through (xvii) of Section 4.07(b)) is less than the sum, without duplication, of:

(i) 50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) from the beginning of the fiscal quarter after the fiscal quarter in which the Acquisition Closing Date occurs to the end 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

(ii) 100% of the aggregate net cash proceeds and the Fair Market Value of property, assets or marketable securities received by the Issuer since the Acquisition Closing Date as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Issuer (other than Disqualified Stock) or

from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Issuer that have been converted into or exchanged for such Equity Interests (in each case other than (A) Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Issuer or to an employee stock ownership plan or other trust established by the Issuer or any Restricted Subsidiary, (B) Designated Preferred Stock, (C) Equity Interests sold to members of management or directors of the Issuer or any Restricted Subsidiary or Parent after the Acquisition Closing Date to the extent such amounts have been applied to Restricted Payments made in accordance with clause (iv) of the next succeeding paragraph, (D) Excluded Contributions and (E) contributions to the extent such contributions have been used to Incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to Section 4.09(b)(xxi)); plus

(iii) with respect to Restricted Investments made by the Issuer or its Restricted Subsidiaries after the Acquisition Closing Date, an amount equal to the greatest of (A) the net reduction in such Restricted Investments in any Person resulting from repayments of loans or advances, or other transfers of assets, in each case to the Issuer or any Restricted Subsidiary, (B) the net cash proceeds received by the Issuer or any of its Restricted Subsidiaries from the sale of any such Restricted Investment or the receipt by the Issuer or any of its Restricted Subsidiaries of any dividends or distributions from such Restricted Investment, or (c) the net reduction in such Restricted Investment resulting from the release of any guarantee (except to the extent any amounts are paid under such guarantee) or from redesignations of Unrestricted Subsidiaries as Restricted Subsidiaries.

(b) The preceding provisions will not prohibit:

(i) the payment of any dividend or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or giving of the redemption notice, as the case may be, if at the date of declaration of such payment or notice the dividend or redemption payment would have complied with the provisions of this Indenture;

(ii) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Issuer) of, Equity Interests of the Issuer (other than Disqualified Stock or Designated Preferred Stock and other than the sale of Equity Interests designated as an Excluded Contribution) or from the substantially concurrent contribution of common equity capital to the Issuer; provided that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from clause (3)(ii) of Section 4.07(a);

(iii) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;

(iv) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary of the Issuer payable to the Issuer or to a Restricted Subsidiary and pro rata dividends or distributions payable to minority holders of Equity Interests of any Restricted Subsidiary who are not Affiliates other than the Issuer or a Restricted Subsidiary;

(v) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Issuer or any Restricted Subsidiary of the Issuer held by any future, current or former officer, director or employee of the Issuer or any Restricted Subsidiary pursuant to any equity subscription agreement, stock option agreement, shareholders' agreement or similar agreement or payments to Parent in amounts equal to amounts expended by Parent to repurchase, redeem or otherwise acquire or retire for value any Equity Interests of Parent held by any future, current or former officer, director or employee of Parent, the Issuer or any of its Subsidiaries (or their permitted transferees) pursuant to any equity subscription agreement, stock option agreement, shareholders' agreement or similar agreement; provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$20.0 million in any twelve-month period (which shall increase to \$30.0 million subsequent to the consummation of any underwritten public Equity Offering by the Issuer or any direct or indirect parent entity of the Issuer) (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of \$40.0 million in any calendar year (which shall increase to \$60.0 million subsequent to the consummation of an underwritten public Equity Offering by the Issuer or any direct or indirect parent corporation of the Issuer); and provided, further that such amount in any twelve-month period may be increased by an amount equal to (x) the cash proceeds received by the Issuer or any Restricted Subsidiary from the sale of Equity Interests of the Issuer (other than Disqualified Stock) or of the Parent (to the extent contributed to the Issuer) to members of management or directors of the Issuer or any Restricted Subsidiary or Parent; plus (y) the cash proceeds of key man life insurance policies received by the Issuer or Parent (to the extent contributed to the Issuer) or any Restricted Subsidiary; minus (z) the amount of any Restricted Payments previously made with the cash proceeds described in clauses (x) and (y) of this clause (v); and provided further that that cancellation of Indebtedness owing to the Issuer or any Restricted Subsidiary from any officer, director or employee of the Issuer, Parent or any Restricted Subsidiary in connection with a repurchase of Equity Interests of the Issuer, Parent or any Restricted Subsidiary will not be deemed to constitute a Restricted Payment for purposes of this Section 4.07 or any other provision of this Indenture;

(vi) the repurchase of Equity Interests deemed to occur upon the exercise of stock options or warrants to the extent such Equity Interests represent a portion of the exercise price of those stock options or warrants;

(vii) the payment of dividends on the Issuer's common stock (or the payment of dividends to Parent to fund the payment by Parent of dividends on its common stock) following any public offering of common stock of Parent or the Issuer, as the case may be, after the Acquisition Closing Date, of up to 6.0% per annum of the net proceeds received by the Issuer (or by Parent and contributed to the Issuer) from such public

offering other than any public offering constituting an Excluded Contribution; provided, however, that the aggregate amount of all such dividends shall not exceed the aggregate amount of net proceeds received by the Issuer (or by Parent and contributed to the Issuer) from such public offering;

(viii) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Issuer or any Restricted Subsidiary of the Issuer issued after the Acquisition Closing Date in accordance with Section 4.09;

(ix) the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock issued by the Issuer after the Acquisition Closing Date and the declaration and payment of dividends to a direct or indirect parent of the Issuer, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock of such parent issued after the Acquisition Closing Date; provided that (1) for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of issuance of such Designated Preferred Stock, after giving effect to such issuance and declaration on a pro forma basis, the Issuer would have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a) and (2) the aggregate amount of dividends declared and paid pursuant to this clause (ix) shall not exceed the aggregate amount of cash actually received by the Issuer from the sale of such Designated Preferred Stock issued after the Acquisition Closing Date;

(x) upon the occurrence of a Change of Control and within 60 days after completion of the offer to repurchase Notes pursuant to Section 4.14 (including the purchase of all Notes tendered), any purchase or redemption of Subordinated Indebtedness of the Issuer 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);

(xi) within 60 days after completion of any offer to repurchase Notes pursuant to Section 4.10 (including the purchase of all Notes tendered), any purchase or redemption of Subordinated Indebtedness of the Issuer 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);

(xii) Investments in Unrestricted Subsidiaries having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (xii) that are at that time outstanding, not to exceed \$75.0 million (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(xiii) the distribution, as a dividend or otherwise of shares of Capital Stock of, or Indebtedness owed to the Issuer or any Restricted Subsidiary by, Unrestricted

Subsidiaries (other than Unrestricted Subsidiaries the primary assets of which are cash and/or Cash Equivalents);

(xiv) cash dividends or other distributions on the Issuer's Capital Stock used to, or the making of loans to any direct or indirect parent of the Issuer to, fund the payment of fees and expenses incurred in connection with, or other payments contemplated by, the Transactions or as contemplated by the Acquisition Documents or owed by the Issuer or Parent, as the case may be, or Restricted Subsidiaries to Affiliates;

(xv) Investments that are made with Excluded Contributions;

(xvi) payments to the Sponsors and any of their Affiliates (a) pursuant to the Management Agreement or any amendment thereto (so long as such amendment is not less advantageous to the Holders of the Notes in any material respect than the Management Agreement) or (b) for any other financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or divestitures, which payments, in the case of this clause (b), are approved by a majority of the disinterested members of the Board of Directors of Parent in good faith;

(xvii) Permitted Payments to Parent; and

(xviii) other Restricted Payments in an aggregate amount not to exceed the greater of \$125.0 million and 2.00% of Total Assets;

provided, however, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (v), (vii), (xii) and (xviii), no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof.

(c) The amount of all Restricted Payments (other than cash and Cash Equivalents) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by Parent, the Issuer or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

#### Section 4.08. Dividend and Other Payment Restrictions Affecting Subsidiaries

(a) The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(i) pay dividends or make any other distributions on its Capital Stock to the Issuer or any Restricted Subsidiary, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to the Issuer or any Restricted Subsidiary;

(ii) make loans or advances to the Issuer or any Restricted Subsidiary; or

(iii) sell, lease or transfer any of its properties or assets to the Issuer or any Restricted Subsidiary.

(b) The preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(i) agreements governing Existing Indebtedness and Credit Facilities as in effect on the Issue Date and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; provided that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the Issue Date;

(ii) this Indenture, the Notes and the Note Guarantees;

(iii) applicable law, rule, regulation or order;

(iv) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Issuer or any Restricted Subsidiary as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; provided that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;

(v) customary provisions (including non-assignment provisions) contained in leases, subleases, licenses or asset sale agreements and other agreements entered into in the ordinary course of business;

(vi) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (a)(iii) of this Section 4.08;

(vii) any agreement for the sale or other disposition of a Restricted Subsidiary (including a sale of its Capital Stock or its assets) that restricts distributions by that Restricted Subsidiary pending the sale or other disposition;

(viii) Permitted Refinancing Indebtedness; provided that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(ix) Liens permitted to be incurred under the provisions of Section 4.12 that limit the right of the debtor to dispose of the assets subject to such Liens;

(x) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements entered into with the approval of the Issuer's Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements;

(xi) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(xii) any other agreement governing Indebtedness entered into after the Issue Date that contains encumbrances and restrictions that, taken as a whole, are not materially more restrictive with respect to any Restricted Subsidiary than those in effect on the Issue Date with respect to that Restricted Subsidiary pursuant to agreements in effect on the Issue Date (including this Indenture, the Credit Agreement and the Senior Interim Loan Credit Agreement);

(xiii) Indebtedness of any Foreign Subsidiary permitted to be incurred under Section 4.09(b)(xxii); and

(xiv) any encumbrances or restrictions of the type referred to in clauses (a)(i), (a)(ii) and (a)(iii) of this Section 4.08 imposed by any 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, however, that the encumbrances or restrictions imposed by such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of Parent's Board of Directors, not materially less favorable to the Holders of the Notes than encumbrances and restrictions contained in such predecessor agreements.

#### Section 4.09. Incurrence of Indebtedness and Issuance of Preferred Stock

(a) The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and the Issuer will not issue any Disqualified Stock and will not permit any Restricted Subsidiary to issue any shares of Disqualified Stock or any shares of Preferred Stock; provided, however, that the Issuer and any Restricted Subsidiary may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock or Preferred Stock, if the Fixed Charge Coverage Ratio as of the date on which such additional Indebtedness is incurred or such Disqualified Stock or such Preferred Stock is issued, as the case may be, 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 the Preferred Stock had been issued, as the case may be, at the beginning of such four-quarter period.

(b) The provisions of Section 4.09(a) hereof shall not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt");

(i) the incurrence by the Issuer and its Restricted Subsidiaries of Indebtedness and letters of credit under Credit Facilities, excluding the Senior Interim Loan Credit Agreement, in an aggregate principal amount at any one time outstanding under this clause (i) (with letters of credit being deemed to have a principal amount equal to the face amount thereof) not to exceed \$3,900.0 million, less the aggregate amount of all Net Proceeds of Asset Sales applied by the Issuer or any Restricted Subsidiary since the Acquisition Closing Date to repay any term Indebtedness under a Credit Facility or to repay any revolving credit Indebtedness under a Credit Facility and effect a corresponding commitment reduction thereunder pursuant to Section 4.10;

(ii) the incurrence by the Issuer and its Restricted Subsidiaries of Existing Indebtedness;

(iii) (a) the incurrence by the Issuer and the Guarantors of Indebtedness represented by the Notes and the related Note Guarantees, and  
(b) Indebtedness under the Senior Interim Loan Credit Agreement in an amount not to exceed \$1,100 million less the aggregate principal amount of the Notes plus any additional Loans issued as PIK Interest and any Exchange Notes issued in exchange for any Loans and any additional Exchange Notes issued as PIK Interest thereon;

(iv) Indebtedness (including Capital Lease Obligations), Disqualified Stock and Preferred Stock incurred by the Issuer or any of its Restricted Subsidiaries, to finance the purchase, lease or improvement of property (real or personal) or equipment that is used or useful in a Permitted Business, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets, in an aggregate principal amount, together with any Permitted Refinancing Indebtedness in respect thereof and all other Indebtedness, Disqualified Stock and/or Preferred Stock issued and outstanding under this clause (iv) not to exceed \$125.0 million at any time outstanding; so long as such Indebtedness exists at the date of such purchase, lease or improvement, or is created within 270 days thereafter;

(v) the incurrence by the Issuer or any Restricted Subsidiary of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge any Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under Section 4.09(a) hereof or clauses (ii), (iii), (iv), (v), (xiii), (xv), (xxi), (xxii) and (xxiii) of this Section 4.09(b) including additional Indebtedness incurred to pay premiums and fees in connection therewith;

(vi) the incurrence by the Issuer or any Restricted Subsidiary of intercompany Indebtedness between or among the Issuer and any Restricted Subsidiary; provided, however, that:

(1) if the Issuer or any Guarantor is the obligor on such Indebtedness and the payee is not the Issuer or a Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the Notes and the Note Guarantees; and

(2) any (A) subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Issuer or a Restricted Subsidiary of the Issuer, or (B) sale or other transfer of any such Indebtedness to a Person that is not either the Issuer or a Restricted Subsidiary of the Issuer,

will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Issuer or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (vi);

(vii) the issuance by any of the Issuer's Restricted Subsidiaries to the Issuer or to any Restricted Subsidiary of shares of Preferred Stock; provided, however, that any (1) subsequent issuance or transfer of Equity Interests that results in any such Preferred Stock being held by a Person other than the Issuer or a Restricted Subsidiary of the Issuer, or (2) sale or other transfer of any such Preferred Stock to a Person that is not either the Issuer or a Restricted Subsidiary of the Issuer, will be deemed, in each case, to constitute an issuance of such Preferred Stock by such Restricted Subsidiary that was not permitted by this clause (vii);

(viii) the incurrence by the Issuer or any Restricted Subsidiary of Hedging Obligations in the ordinary course of business and not for speculative purposes;

(ix) (1) the guarantee by the Issuer or any of the Guarantors of Indebtedness of the Issuer or a Restricted Subsidiary of the Issuer that was permitted to be incurred by another provision of this Section 4.09; provided that if the Indebtedness being guaranteed is subordinated to or pari passu with the Notes, then the Guarantee shall be subordinated or pari passu, as applicable, to the same extent as the Indebtedness guaranteed and (2) any guarantee by a Restricted Subsidiary that is not a Guarantor of Indebtedness of another Restricted Subsidiary that is not a Guarantor that was permitted to be incurred by another provision of this Section 4.09;

(x) Indebtedness incurred by the Issuer or any Restricted Subsidiary constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including letters of credit in respect of workers' compensation claims, health, disability or other employee benefits, or property, casualty or liability 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 or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(xi) the incurrence by the Issuer or any Restricted Subsidiary of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five business days;

(xii) receivables or factoring arrangements in the ordinary course of business;

(xiii) Indebtedness arising from agreements of the Issuer or a Restricted Subsidiary providing for indemnification, adjustment of purchase price, earnouts or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition; provided, however, that

(1) such Indebtedness is not reflected on the balance sheet of the Issuer or any Restricted Subsidiary prepared in accordance with GAAP (contingent obligations referred to in a footnote to financial statements and not otherwise reflected on the balance sheet will not be deemed to be reflected on such balance sheet for purposes of this clause (xiii)(1)) and

(2) the maximum assumable liability in respect of all such Indebtedness shall at no time exceed the gross proceeds including noncash proceeds (the fair market value of such noncash proceeds being measured at the time received and without giving effect to any subsequent changes in value) actually received by the Issuer and the Restricted Subsidiaries in connection with such disposition;

(xiv) Indebtedness of the Issuer or any Restricted Subsidiary consisting of (1) the financing of insurance premiums or (2) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(xv) Indebtedness, Disqualified Stock or Preferred Stock of (1) the Issuer or a Restricted Subsidiary incurred to finance an acquisition or (2) Persons that are acquired by the Issuer or any Restricted Subsidiary or merged into the Issuer or a Restricted Subsidiary in accordance with the terms of this Indenture; provided that, in the case of this clause (xv)(2) such Indebtedness, Disqualified Stock or preferred stock is not incurred in contemplation of such acquisition or merger; provided further that after giving effect to such acquisition or merger, either

(A) the Issuer would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a) or

(B) the Fixed Charge Coverage Ratio of the Issuer and its Restricted Subsidiaries is equal to or greater than immediately prior to such acquisition or merger;

(xvi) [intentionally omitted];

(xvii) obligations in respect of performance, bid, appeal and surety bonds and completion guarantees provided by the Issuer or any Restricted Subsidiary in the ordinary course of business;

(xviii) Indebtedness consisting of Indebtedness issued by the Issuer or any Restricted Subsidiary to future, current or former officers, directors and employees

thereof, their respective estates, spouses or former spouses, in each case 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 described in Section 4.07(b)(iv);

(xix) customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business;

(xx) Indebtedness incurred by a Restricted Subsidiary in connection with bankers' acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case incurred or undertaken in the ordinary course of business on arm's length commercial terms on a recourse basis;

(xxi) Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary (including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (xxi)) equal to 200% of the net cash proceeds received by the Issuer since immediately after the Acquisition Closing Date from the issue or sale of Equity Interests of the Issuer or cash contributed to the capital of the Issuer (in each case, other than proceeds of Disqualified Stock or sales of Equity Interests to the Issuer or any of its Subsidiaries) to the extent such net cash proceeds or cash have not been applied pursuant to Section 4.07(a)(3)(ii) to make Restricted Payments or to make other Investments, payments or exchanges pursuant to Section 4.07(b) or to make Permitted Investments (other than Permitted Investments specified in clauses (1) and (3) of the definition thereof);

(xxii) the incurrence by Foreign Subsidiaries of Indebtedness in an aggregate principal amount at any time outstanding pursuant to this clause (xxii), including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (xxii), not to exceed \$125.0 million (or the equivalent thereof, measured at the time of each incurrence, in applicable foreign currency); and

(xxiii) Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred pursuant to this clause (xxiii), including any Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (xxiii), does not at any one time outstanding exceed \$150.0 million.

For purposes of determining compliance with this Section 4.09, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (i) through (xxiii) above, or is entitled to be incurred pursuant to Section 4.09(a), the Issuer will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.09. Indebtedness under Credit Facilities outstanding on

the Issue Date will initially be deemed to have been incurred on such date in reliance on the exception provided by clause (1) of the definition of "Permitted Debt". The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of Preferred Stock as Indebtedness due to a change in accounting principles, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 4.09. Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Issuer or any Restricted Subsidiary may incur pursuant to this Section 4.09 shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; and
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness.

#### Section 4.10. Asset Sales

(a) The Issuer shall not, and shall not permit any Restricted Subsidiary to, consummate an Asset Sale unless:

(i) the Issuer (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of; and

(ii) except in the case of a Permitted Asset Swap, at least 75% of the consideration received in the Asset Sale by the Issuer or such Restricted Subsidiary is in the form of cash or Cash Equivalents.

For purposes of this Section 4.10, each of the following shall be deemed to be cash:

(1) any liabilities of the Issuer or any Restricted Subsidiary (as shown on the Issuer's or of such Restricted Subsidiary's most recent balance sheet or in the notes thereto or, if incurred or increased subsequent to the date of such balance sheet, such liabilities that would have been shown on the Issuer's balance sheet if such incurrence or increase had taken place on the date of such balance sheet, as determined by the Issuer) that are not by their terms subordinated to the Notes or the Note Guarantees that are assumed by the transferee of any such assets pursuant to a customary assumption or novation agreement that releases the Issuer or such Restricted Subsidiary from further liability;

(2) any securities, notes or other obligations received by the Issuer or any such Restricted Subsidiary from such transferee convertible into Cash Equivalents by the

Issuer or such Restricted Subsidiary within 180 days of the closing of the Asset Sale, to the extent of the Cash Equivalents received in such conversion;

(3) any Capital Stock, properties or assets of the kind referred to in clauses (b)(iv) or (b)(v) of this Section 4.10; and

(4) 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 (d) that is at that time outstanding, not to exceed 2.0% 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.

(b) Within 450 days after the receipt of any Net Proceeds from an Asset Sale, the Issuer (or the applicable Restricted Subsidiary, as the case may be) may apply such Net Proceeds:

(i) to reduce (x) Indebtedness and letters of credit under Credit Facilities, and if the Indebtedness so reduced is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto or (y) other Obligations under Indebtedness that rank pari passu with the Notes (provided, however, that if the Issuer shall so reduce Indebtedness that ranks pari passu with the Notes, it will offer to equally and ratably reduce Obligations under the Notes by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer (as defined below)) to all Holders of Notes to purchase at a purchase price equal to 100% of the principal amount thereof, plus accrued and unpaid interest on the pro rata principal amount of Notes);

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

(iii) to repay obligations under Senior Debt that is secured by a Lien, which Lien is permitted by Section 4.12 hereof, and to correspondingly reduce commitments with respect thereto;

(iv) to acquire Capital Stock of any business to the extent that such business is a Permitted Business, if, after giving effect to any such acquisition of Capital Stock, the Permitted Business is or becomes a Restricted Subsidiary of the Issuer;

(v) to acquire properties or assets to the extent that such properties or assets are used or useful in a Permitted Business or replace properties or assets that were the subject of such Asset Sale; or

(vi) to make a capital expenditure that is used or useful in a Permitted Business.

Pending the final application of any Net Proceeds, the Issuer (or the applicable Restricted Subsidiary, as the case may be) may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by this Indenture.

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the second paragraph of this Section 4.10(b) will constitute "Excess Proceeds"; provided that a binding commitment to apply such Net Proceeds in accordance with the requirements of clause (iv), (v) or (vi) of the immediately preceding paragraph shall be treated as a permitted application of the Net Proceeds from the date of such commitment so long as the Issuer, or such other Restricted Subsidiary enters into such commitment with the good faith expectation that such Net Proceeds will be applied to satisfy such commitment within 180 days of such commitment (an "Acceptable Commitment") and, in the event any Acceptable Commitment is later cancelled or terminated for any reason before the Net Proceeds are applied in connection therewith, the Issuer or such Restricted Subsidiary enters into another Acceptable Commitment (a "Second Commitment") within 180 days of such cancellation or termination; provided, further, that if any Second Commitment is later cancelled or terminated for any reason before such Net Proceeds are applied, then such Net Proceeds shall constitute Excess Proceeds.

When the aggregate amount of Excess Proceeds exceeds \$50.0 million, the Issuer will make an offer (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 or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount plus accrued and unpaid interest to the date of purchase, and will be payable in cash.

If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Issuer may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and other pari passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select the Notes and the applicable person (but not the Trustee) will select such other pari passu Indebtedness to be purchased on a pro rata basis so that only Notes in denominations of \$2,000 or integral multiples of \$1,000 in excess thereof, shall be purchased. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

(c) 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 those laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with this Section 4.10, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations of this Section 4.10 by virtue of such compliance.

#### Section 4.11. Transactions with Affiliates

(a) The Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, 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, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Issuer (each an "Affiliate Transaction") involving aggregate consideration in excess of \$20.0 million, unless:

(i) the Affiliate Transaction is on terms that are no less favorable to the Issuer or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with an unrelated Person; and

(ii) the Issuer delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$50.0 million, a majority of the disinterested members of the Board of Directors of Parent have determined in good faith that the criteria set forth in the immediately preceding clause (i) are satisfied and have approved the relevant Affiliate Transaction as evidenced by a resolution of the Board of Directors of the Issuer; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$150.0 million, a written opinion as to the fairness of such Affiliate Transaction to the Issuer or the relevant Restricted Subsidiary from a financial point of view by an accounting, appraisal or investment banking firm of national standing.

(b) The following items shall not be deemed to be Affiliate Transactions and, therefore, shall not be subject to the provisions of Section 4.11(a):

(i) any employment agreement, fee arrangement, employee benefit plan, indemnification agreement or any similar arrangement entered into by the Issuer or any Restricted Subsidiary with officers, directors or employees of the Issuer, any of its direct or indirect parent entities, or any Restricted Subsidiary in the ordinary course of business and payments pursuant thereto;

(ii) transactions between or among the Issuer and/or its Restricted Subsidiaries;

(iii) Restricted Payments that do not violate the provisions of this Indenture described in Section 4.07 and Permitted Investments permitted by this Indenture;

(iv) payments made by the Issuer or any Restricted Subsidiary to the Sponsors and any of their Affiliates (1) pursuant to the Management Agreement or any amendment thereto (so long as such amendment is not less advantageous to the Holders of the Notes in any material respect than the Management Agreement) or (2) for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or

divestitures, which payments, in the case of this clause (2), are approved by a majority of the Board of Directors of Parent in good faith;

(v) payments, loans (or cancellations of loans) or advances to employees of the Issuer or any of its direct or indirect parent entities or any Restricted Subsidiary that are approved by the Board of Directors of the Issuer and which are otherwise permitted under this Indenture;

(vi) the existence of, or payments made or performance under any agreement as in effect on the Issue Date (including without limitation the Shareholders Agreement and any registration rights agreement or purchase agreements related thereto) or any amendment thereto (so long as any such amendment is not less advantageous to the Holders of the Notes in any material respect than the original agreement as in effect on the Issue Date),

(vii) the Transactions and the payment of all transaction, underwriting, commitment and other fees and expenses incurred in connection with the Transactions;

(viii) 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 that are fair to the Issuer or its Restricted Subsidiaries, in the reasonable determination of the members of the Board of Directors of the Issuer or the senior management thereof, or are on terms at least as favorable as would reasonably have been entered into at such time with an unaffiliated party;

(ix) the issuance of Equity Interests (other than Disqualified Stock) of the Issuer to any Person;

(x) the issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock option and stock ownership plans or similar employee benefit plans approved by the Board of Directors of the Issuer or any direct or indirect parent company of the Issuer or a Restricted Subsidiary of the Issuer, as appropriate, in good faith;

(xi) any contribution to the capital of the Issuer;

(xii) transactions between the Issuer or any Restricted Subsidiary and any Person, a director of which is also a director of the Issuer or any direct or indirect parent company of the Issuer and such director is the sole cause for such Person to be deemed an Affiliate of the Issuer or any Restricted Subsidiary; provided, however, 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) pledges of Equity Interests of Unrestricted Subsidiaries;

(xiv) investments by any of the Sponsors in securities of the Issuer or any Restricted Subsidiary (and payment of reasonable out-of-pocket expenses incurred by such Sponsors in connection therewith);

(xv) transactions with AxelTech International in the ordinary course of business;

(xvi) transactions with a Person (other than an Unrestricted Subsidiary of the Issuer) that is an Affiliate of the Issuer solely because the Issuer owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person; and

(xvii) Permitted Parent Payments to Parent.

#### Section 4.12. Liens

The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, assume or suffer to exist any Lien that secures obligations under any Indebtedness ranking pari passu with or subordinated to the Notes or a Note Guarantee on any asset or property of the Issuer or any Restricted Subsidiary, or any income or profits therefrom, or assign or convey any right to receive income therefrom, unless:

(i) such Lien is a Permitted Lien;

(ii) in the case of Liens securing Indebtedness subordinated to the Notes or the Note Guarantees, the Notes and any Note Guarantees are secured by a Lien on such property, assets or proceeds that is senior in priority to such Liens; or

(iii) in all other cases, the Notes and any Note Guarantees are equally and ratably secured.

provided that any Lien granted to secure the Notes and Note Guarantees under this Section 4.12 shall be discharged at the same time as the discharge of the Lien that gave rise to the obligation to so secure the Notes.

#### Section 4.13. Corporate Existence

Subject to Article 5 hereof, the Issuer shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its corporate existence, and the corporate, partnership or other existence of each of its Restricted Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Issuer or any such Restricted Subsidiary and (ii) the material rights (charter and statutory), licenses and franchises of the Issuer and its Restricted Subsidiaries; provided that the Issuer shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Restricted Subsidiaries, if the Issuer in good faith shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Issuer and its Restricted Subsidiaries, taken as a whole.

#### Section 4.14. Offer to Repurchase upon Change of Control

Upon the occurrence of a Change of Control, each Holder of Notes will 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 pursuant to the offer described below (the

“Change of Control Offer”) at an offer price in cash equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest to the date of purchase (the “Change of Control Payment”), subject to the rights of Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date. Within 30 days following any Change of Control, the Issuer will mail a notice to each Holder stating:

(i) that a Change of Control Offer is being made pursuant to this Section 4.14 and, to the extent lawful, that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment by the Issuer;

(ii) the purchase price and the purchase date, which will be no earlier than 30 days nor later than 60 days from the date such notice is mailed (the “Change of Control Payment Date”);

(iii) that any Note not properly tendered or accepted for payment will remain outstanding and continue to accrue interest in accordance with the terms hereof;

(iv) that unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;

(v) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled “Option of Holder to Elect Purchase” on the reverse of such Notes completed, or transfer by book entry transfer to the Issuer or to the paying agent specified in the notice at the address specified in the notice prior to the close of business at least three Business Days preceding the Change of Control Payment Date;

(vi) that Holders shall be entitled to withdraw their tendered Notes and their election to require the Issuer to purchase such Notes; provided that the paying agent receives, not later than the close of business on the 30th day following the date of the Change of Control notice, a facsimile transmission or letter setting forth the name of the Holder of the Notes, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;

(vii) that if the Issuer is redeeming less than all of the Notes, the Holders of the remaining Notes will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be equal to \$2,000 or an integral multiple of \$1,000 in excess thereof or transferred by book-entry transfer; and

(viii) the other instructions, as determined by the Issuer, consistent with this Section 4.14, that a Holder must follow.

The notice, if mailed in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. If (a) the notice is mailed in a manner herein provided and (b) any Holder fails to receive such notice or a Holder receives such notice

but it is defective, such Holder's failure to receive such notice or such defect shall not affect the validity of the proceedings for the purchase of the Notes as to all other Holders that properly received such notice without defect.

(b) 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 and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of this Indenture, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under the Change of Control provisions of this Indenture by virtue of such compliance.

(c) On the Change of Control Payment Date, the Issuer shall, to the extent lawful:

- (i) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;
- (ii) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and
- (iii) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Issuer.

The Paying Agent shall promptly mail to each Holder of Notes properly tendered the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book-entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided that each such new Note will be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. The Issuer shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(d) 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 this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer or (ii) notice of redemption has been given pursuant to this Indenture as described above under Section 3.03 unless and until there is a default in payment of the applicable redemption price. A Change of Control Offer may be made in advance of a Change of Control, or conditional 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. Notes repurchased pursuant to a Change of Control Offer will be retired and cancelled.

Section 4.15. Intentionally Omitted.

Section 4.16. Intentionally Omitted.

Section 4.17. Additional Note Guarantees.

If the Issuer or any Restricted Subsidiary acquires or creates another Domestic Subsidiary after the Issue Date and such Domestic Subsidiary incurs any Indebtedness under the Credit Agreement or guarantees any Indebtedness outstanding under the Credit Agreement, then the Issuer will cause that newly acquired or created Domestic Subsidiary to execute a supplemental indenture pursuant to which it becomes a Guarantor.

Section 4.18. Designation of Restricted and Unrestricted Subsidiaries.

(a) The Board of Directors of Parent may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Issuer and its Restricted Subsidiaries in the Subsidiary designated as Unrestricted will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under Section 4.07 or under one or more clauses of the definition of "Permitted Investments," as determined by the Issuer. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an "Unrestricted Subsidiary." The Board of Directors of Parent may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default.

(b) Any designation of a Subsidiary of the Issuer as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of a resolution of the Board of Directors giving effect to such designation and an Officer's Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Issuer as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09, the Issuer will be in default of such Section 4.09. The Board of Directors of Parent may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary of the Issuer; provided that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Issuer of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted under Section 4.09, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation.

Section 4.19. Covenant Suspension.

(a) If during any period of time that (i) the Notes have Investment Grade Ratings from both Rating Agencies and (ii) no Default or Event of Default has occurred and is continuing under this Indenture, the Issuer and its Restricted Subsidiaries will not be subject to the following covenants (collectively, the "Suspended Covenants"):

- (i) Section 4.07 hereof;
- (ii) Section 4.08 hereof;

- (iii) Section 4.09 hereof;
- (iv) Section 4.10 hereof;
- (v) Section 4.11 hereof; and
- (vi) Section 5.01(a)(iv) hereof.

(b) Notwithstanding the foregoing, if the rating assigned by either such Rating Agency should subsequently decline below Investment Grade Ratings, the foregoing covenants will be reinstated as of and from the date of such rating decline and any actions taken, or omitted to be taken, before such rating decline that would have been prohibited had the foregoing covenants been in effect shall not form the basis for a Default or an Event of Default. Calculations under Section 4.07 will be made as if Section 4.07 had been in effect since the Issue Date except that no Default or Event of Default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. All Indebtedness incurred by the Issuer and its Restricted Subsidiaries while Section 4.09 was suspended that would not have been permitted to be incurred under the covenant had such covenant been applicable shall be deemed Existing Indebtedness.

(c) The Issuer shall deliver promptly to the Trustee an Officer's Certificate notifying it of any such occurrence under Section 4.19(a) and (b).

## ARTICLE 5

### SUCCESSORS

#### Section 5.01. Merger, Consolidation or Sale of All Assets.

The Issuer shall 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 or assets of the Issuer and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(i) either: (1) the Issuer is the surviving corporation; or (2) 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 has been made is a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia (the Issuer or such Person, including the Person to which such sale, assignment, transfer, conveyance or other disposition has been made, as the case may be, being herein called the "Successor Company");

(ii) the Successor Company (if other than the Issuer) assumes all the obligations of the Issuer under the Notes and this Indenture pursuant to a supplemental indenture;

(iii) immediately after such transaction and after giving pro forma effect to such transaction and any related financing transactions, as if the same had occurred at the beginning of the applicable four-quarter period, no Default or Event of Default exists; and

(iv) immediately after giving pro forma effect to such transaction and any related financing transactions, as if the same had occurred at the beginning of the applicable four-quarter period, either (a) the Successor Company would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a) or (b) the Fixed Charge Coverage Ratio for the Successor Company and its Restricted Subsidiaries would be equal to or greater than such ratio for the Issuer and its Restricted Subsidiaries immediately prior to such transaction.

(b) The Issuer shall not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

(c) This Section 5.01 will not apply to:

(i) a merger of the Issuer with an Affiliate solely for the purpose of reincorporating the Issuer in another jurisdiction; or

(ii) any consolidation or merger, or any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Issuer and its Restricted Subsidiaries.

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 hereof, the successor corporation 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, lease, conveyance or other disposition, the provisions of this Indenture referring to the Issuer shall refer instead to the successor corporation 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 that the predecessor Issuer shall not be relieved from the obligation to pay the principal of and interest 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 hereof.

## ARTICLE 6

### DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

Each of the following shall be an “**Event of Default**” for purposes of this Indenture:

(i) default for 30 days in the payment when due of interest on the Notes;

(ii) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the Notes;

(iii) failure by the Issuer or any Restricted Subsidiary for 60 days after notice to the Issuer by the Trustee or the Holders of at least 30% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any of the other agreements in this Indenture;

(iv) 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 Restricted Subsidiary (or the payment of which is guaranteed by the Issuer or any Restricted Subsidiary), whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture (other than Indebtedness owed to the Issuer or a Restricted Subsidiary), if that default;

(1) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default; or

(2) 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 Payment Default or the maturity of which has been so accelerated, aggregates \$50.0 million or more;

(v) failure by the Issuer or any Restricted Subsidiary to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$50.0 million, which judgments are not paid, discharged or stayed for a period of 60 days after the judgment becomes final, and, with respect to any such judgments covered by insurance, an enforcement proceeding has been commenced by any creditor upon such judgment or decree that is not promptly stayed;

(vi) except as permitted by this Indenture, any Note Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor that is a Significant Subsidiary, or any Person acting on behalf of such a Guarantor, denies or disaffirms its obligations under its Note Guarantee and such Default continues for 10 days;

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

- (1) commences a voluntary case,
  - (2) consents to the entry of an order for relief against it in an involuntary case,
  - (3) consents to the appointment of a Custodian of it or for all or substantially all of its property, makes a general assignment for the benefit of its creditors, or
  - (4) generally is not paying its debts as they become due; or
- (viii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

- (1) is for relief against the Issuer, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary in an involuntary case,
  - (2) appoints a Custodian of the Issuer, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Issuer, any Restricted Subsidiary that is a Significant Subsidiary, or
  - (3) orders the liquidation of the Issuer, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary,
- and the order or decree remains unstayed and in effect for 60 days.

(b) The Issuer shall deliver to the Trustee annually a statement regarding compliance with this Indenture, and the Issuer shall, upon becoming aware of any Default or Event of Default, deliver to the Trustee a statement specifying such Default or Event of Default.

#### Section 6.02. Acceleration

In the case of an Event of Default specified in clause (vii) or (viii) of Section 6.01 hereof, with respect to 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, 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 or the Holders of at least 30% in aggregate principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration, the Notes shall become due and payable immediately.

### Section 6.03. Other Remedies

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

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 of a Note 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. All remedies are cumulative to the extent permitted by law.

### Section 6.04. Waiver of Past Defaults

The 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, rescind or cancel any declaration of an existing or past Default or Event of Default and its consequences under this Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes (other than nonpayment of principal or interest that has become due solely because of acceleration). 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.

In the event of any Event of Default specified in Section 6.01(a)(iv), such Event of Default and all consequences thereof (excluding, however, any resulting payment default) will be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders of the Notes, if within 20 days after such Event of Default arose the Issuer delivers an Officer's Certificate to the Trustee stating that (x) the Indebtedness or Guarantee that is the basis for such Event of Default has been discharged or (y) the Holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default or (z) the default that is the basis for such Event of Default has been cured, it being understood that in no event shall an acceleration of the principal amount of the Notes as described above be annulled, waived or rescinded upon the happening of any such events.

### Section 6.05. Control by Majority

Holders of a majority in principal amount of the then total outstanding Notes may 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 that the Trustee determines is unduly prejudicial to the rights of other Holders of a Note or that would involve the Trustee in personal liability.

### Section 6.06. Limitation on Suits

Subject to Section 6.07 hereof, no Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

- (1) such Holder has previously given the Trustee notice that an Event of Default is continuing;
- (2) Holders of at least 30% in aggregate principal amount of the then outstanding Notes have requested the Trustee to pursue the remedy;
- (3) such Holders have offered the Trustee reasonable security or indemnity against any loss, liability or expense;
- (4) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of security or indemnity; and
- (5) Holders of a majority in aggregate principal amount of the then outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07. Rights of Holders of Notes to Receive Payment

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08. Collection Suit by Trustee

If an Event of Default specified in Section 6.01(a)(i) or (ii) hereof 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 for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09. Restoration of Rights and Remedies

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceedings, the Issuer, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding has been instituted.

Section 6.10. Rights and Remedies Cumulative

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.11. 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 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.

Section 6.12. 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 the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Issuer (or any other obligor upon the Notes including the Guarantors), its creditors or its property and shall be entitled and empowered to participate as a member in any official committee of creditors appointed in such matter and to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such 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 to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. 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 7.07 hereof out of the estate in any such proceeding, shall be denied 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. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.13. Priorities

If the Trustee collects any money or property pursuant to this Article 6, it shall pay out the money or property in the following order:

- (i) to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;
- (ii) to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, 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, respectively; and
- (iii) to the Issuer or to such party as a court of competent jurisdiction shall direct including a Guarantor, if applicable.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.13.

Section 6.14. 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 a 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, 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 6.14 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE 7

TRUSTEE

Section 7.01. Duties of Trustee

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its 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 duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, 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. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities 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 paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved in a court of competent jurisdiction 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 hereof.

(d) Whether or not therein expressly so provided, 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) The Trustee shall be under no obligation to exercise any of its rights or powers under this Indenture at the request or direction of any of the Holders of the Notes unless the Holders have offered to the Trustee reasonable indemnity or security against any loss, liability or expense.

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

#### Section 7.02. Rights of Trustee

(a) The Trustee may conclusively rely upon any document 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, 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 sole cost of the Issuer and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

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

Counsel. The Trustee may consult with counsel of its selection and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent (other than an agent who is an employee of the Trustee) or attorney appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) 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.

(f) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture

(h) 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.

(i) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be 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.

#### 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 otherwise deal with the Issuer or any Affiliate of the Issuer with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

#### 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 or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

Section 7.05. Notice of Defaults

If a Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default within 90 days after it occurs. Except in the case of a Default relating to the payment of principal, premium, if any, or interest on any Note, the Trustee may withhold from the Holders notice of any continuing 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 of the Notes.

Section 7.06. Reports by Trustee to Holders of the Notes

Within 60 days after each May 15, beginning with the May 15 following the date of this Indenture, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with Trust Indenture Act Section 313(a) (but if no event described in Trust Indenture Act Section 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Issuer and filed with the SEC and each stock exchange on which the Notes are listed. The Issuer shall promptly notify the Trustee when the Notes are listed on any stock exchange.

Section 7.07. Compensation and Indemnity

The Issuer shall pay to the Trustee from time to time such compensation for its acceptance of this Indenture and services hereunder as the parties shall agree in writing from time to time. 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 promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Issuer and the Guarantors, jointly and severally, shall indemnify the Trustee for, and hold the Trustee harmless against, any and all loss, damage, claims, liability or expense (including attorneys' fees) incurred by it in connection with the acceptance or administration of this trust and the performance of its duties hereunder (including the costs and expenses of enforcing this Indenture against the Issuer or any of the Guarantors (including this Section 7.07) or defending itself against any claim whether asserted by any Holder, the Issuer or any Guarantor, or liability in connective with the acceptance, exercise or performance of any of its powers or duties hereunder). The Trustee shall notify the Issuer in writing promptly of any claim

for which it may seek indemnity. Failure by the Trustee to so notify the Issuer shall not relieve the Issuer of its obligations hereunder. The Issuer shall defend the claim and the Trustee may have separate counsel and the Issuer shall pay the fees and expenses of such counsel. The Issuer need not (x) pay for any settlement made without its written consent, which shall not be unreasonably withheld, or (y) reimburse any expense or indemnify against any of the foregoing loss, liability, damage, claim or expense incurred by the Trustee through the Trustee's own willful misconduct, negligence or bad faith.

The obligations of the Issuer under this Section 7.07 shall survive the satisfaction and discharge of this Indenture or the earlier resignation or removal of the Trustee.

To secure the payment obligations of the Issuer and the Guarantors in this Section 7.07, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(a)(vii) or (viii) hereof occurs, the expenses and the compensation for the services (including the reasonable fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

#### Section 7.08. Replacement of Trustee

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 7.08. The Trustee may resign in writing at any time and be discharged from the trust hereby created 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 in writing. The Issuer may remove the Trustee if:

- (a) the Trustee fails to comply with Section 7.10 hereof;
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting as Trustee hereunder or with respect to the Notes.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer. If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee (at the Issuer's expense), the Issuer or the Holders of at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon, 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 Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee and execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee; provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Issuer's obligations under Section 7.07 hereof shall continue for the benefit of the retiring Trustee.

Section 7.09. Successor Trustee by Merger, etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee; provided, however, that such Person shall be otherwise qualified and eligible under Article Seven hereof.

Section 7.10. 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 trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$150,000,000 as set forth in its most recent published annual report of condition.

## ARTICLE 8

### LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. Option to Effect Legal Defeasance or Covenant Defeasance

The Issuer may at any time, at the option of Parent's Board of Directors evidenced by a resolution set forth in an Officers' Certificate, elect to have either Section 8.02 or 8.03 hereof applied to all outstanding Notes and all obligations of the Guarantors upon compliance with the conditions set forth below in this Article 8.

Section 8.02. Legal Defeasance and Discharge

Upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Issuer and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding Notes and Note Guarantees on the date the conditions set forth below are satisfied ("Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer and

the Guarantors shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Note Guarantees), which shall thereafter be deemed to be “outstanding” only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all their other obligations under such Notes, the 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 rights of Holders of outstanding Notes to receive payments in respect of the principal of, premium, if any, and interest on such Notes when such payments are due solely out of the trust created pursuant to this Indenture referred to in Section 8.04 hereof;
- (b) the Issuer’s obligations with respect to Notes concerning issuing temporary Notes, registration of such Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (c) the rights, powers, trusts, duties and immunities of the Trustee, and the Issuer’s and the Guarantors’ obligations in connection therewith; and
- (d) this Section 8.02.

If the Issuer exercises the Legal Defeasance option, payment of the Notes may not be accelerated because of an Event of Default with respect to the Notes (other than an Event of Default specified in Section 6.01(a)(i), (ii), (v) or (vi)). Subject to compliance with this Article 8, the Issuer may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

#### Section 8.03. Covenant Defeasance

Upon the Issuer’s exercise under Section 8.01 hereof 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 hereof, be released from their obligations under the covenants contained in Sections 4.05, 4.07 through 4.12 and 4.14 through 4.18 hereof and Section 5.01(a)(iv) and (b) hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (“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 and the Note Guarantees, the Issuer and the Guarantor 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 hereof, but,

except as specified above, the remainder of this Indenture and such Notes and Note Guarantees shall be unaffected thereby. In addition, upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(iii), 6.01(iv), 6.01(v) (solely with respect to Restricted Subsidiaries that are Significant Subsidiaries), 6.01(vi) (solely with respect to Restricted Subsidiaries that are Significant Subsidiaries) and 6.01(vii) shall not constitute Events of Default.

#### Section 8.04. Conditions to Legal or Covenant Defeasance

The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance with respect to the Notes:

(i) the Issuer shall 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 investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, premium, if any, and interest 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;

(ii) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an opinion of counsel in the United States 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 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 federal income tax purposes as a result of such Legal Defeasance and will be subject to 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;

(iii) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an opinion of counsel in the United States reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to 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;

(iv) 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 the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound;

(v) 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 (other than this Indenture) to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound;

(vi) 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; and

(vii) the Issuer must deliver to the Trustee an Officer's Certificate and an opinion of counsel, each stating that all conditions precedent provided for 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**

Subject to Section 8.06 hereof, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof 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 or a Guarantor 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, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.04 hereof 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.

Anything in this Article 8 to the contrary notwithstanding, the Trustee 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 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(vii) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

**Section 8.06. Repayment to the Issuer**

The Trustee shall promptly, and in any event, no later than three Business Days, pay to the Issuer after request therefor, any excess money or Government Securities held with respect to the Notes at such time in excess of amounts required to pay any of the Issuer's Obligations then owing with respect to the Notes. Subject to any applicable abandoned property law, any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining

unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Issuer on its request or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, shall thereupon cease.

Section 8.07. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States dollars or Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; provided that, if the Issuer makes any payment of principal of, premium, if any, or interest on any Note 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 held by the Trustee or Paying Agent.

ARTICLE 9

AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01. Without Consent of Holders of Notes

Notwithstanding Section 9.02 hereof, the Issuer, any Guarantor (with respect to a Note Guarantee or this Indenture) and the Trustee may amend or supplement this Indenture and any Note Guarantee or the Notes or other agreements or instruments entered into by the Issuer in connection with this Indenture without the consent of any Holder:

- (1) to cure any ambiguity, defect or inconsistency;
- (2) to provide for uncertificated Notes in addition to or in place of certificated Notes;
- (3) to provide for the assumption of the Issuer's or a Guarantor's obligations to Holders of Notes and Note Guarantees in the case of a merger or consolidation or sale of all or substantially all of the Issuer's or such Guarantor's assets, as applicable;
- (4) 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;
- (5) to release a Guarantor upon its sale or designation as an Unrestricted Subsidiary or other permitted release from its Note Guarantee;
- (6) to comply with the requirements of the SEC in order to effect the qualification of this Indenture under the Trust Indenture Act of 1939, as amended;

- (7) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture;
- (8) in the event that PIK Notes are issued in certificated form, to make appropriate amendments to the Indenture to reflect an appropriate denomination of certificated PIK Notes and establish minimum redemption amounts for certificated PIK Notes; and
- (9) to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the Notes.

Upon the request of the Issuer accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 9.06 hereof, 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, but 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.

#### Section 9.02. With Consent of Holders of Notes

Except as provided below in this Section 9.02, the Issuer and the Trustee may amend or supplement this Indenture, the Notes, the Note Guarantees or the Notes or other agreements or instruments entered into by the Issuer in connection with this Indenture with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default or compliance with any provision of this Indenture, the Note Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 hereof and Section 2.09 hereof shall determine which Notes are considered to be “outstanding” for the purposes of this Section 9.02.

Upon the request of the Issuer accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental 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 9.06 hereof, the Trustee shall join with the Issuer and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture 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 amended or supplemental indenture.

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

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Issuer shall (or cause the Trustee, at the expense of and at the request of the Issuer, to) mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver.

Without the consent of each affected Holder of Notes, an amendment, consent, 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 principal of or change the fixed maturity of any Note or alter the provisions with respect to the redemption of the Notes (except as provided pursuant to Sections 3.07, 3.09, 4.10 and 4.14) hereof;
- (iii) reduce the rate of or change the time for payment of interest, including default interest, on any Note;
- (iv) waive a Default or Event of Default in the payment of principal of, or interest, or premium, 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 Notes and a waiver of the payment default that resulted from such acceleration);
- (v) make any Note payable in money other than that stated in the Notes;
- (vi) 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 or premium, if any, or interest on the Notes;
- (vii) waive a redemption payment with respect to any Note (other than a payment pursuant to Sections 3.07, 3.09, 4.10 or 4.14) hereof;
- (viii) release any Guarantor from any of its obligations under its Note Guarantee or this Indenture, except in accordance with the terms of this Indenture; or
- (ix) make any change in the foregoing amendment and waiver provisions.

#### Section 9.03. Revocation and Effect of Consents

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, 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.

The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement, or waiver. If a record date is fixed, then, notwithstanding the preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only such Persons, shall be entitled to consent to such amendment, supplement, or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date unless the consent of the requisite number of Holders has been obtained.

Section 9.04. Notation on or Exchange of Notes

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Issuer in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.05. Trustee to Sign Amendments, etc.

The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Issuer may not sign an amendment, supplement or waiver until the Board of Directors approves it. In executing any amendment, supplement or waiver, the Trustee shall be entitled to receive and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 12.03 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture 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 any Guarantors party thereto, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof (including Section 9.03).

ARTICLE 10

NOTE GUARANTEES

Section 10.01. Note Guarantee

Subject to this Article 10, from and after the consummation of the Acquisition, each of the Guarantors hereby, jointly and severally, 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 this Indenture, the Notes or the obligations of the Issuer hereunder or thereunder, that: (a) the principal of, interest and premium, if any, on the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Issuer to the Holders or the Trustee hereunder or thereunder shall be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same shall be promptly paid in full when due or performed 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 or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

The Guarantors hereby agree that their obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this 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. Each Guarantor 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 this Indenture.

Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or any Holder in enforcing any rights under this Section 10.01.

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 the Guarantors, any amount paid either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each Guarantor 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. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee. 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 Guarantees.

Each Note Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Issuer for liquidation, reorganization, should the Issuer become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Issuer's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or Note Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

In case any provision of any Note Guarantee 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.

Each payment to be made by a Guarantor in respect of its Note Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

#### Section 10.02. 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 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 any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of each Guarantor shall 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 10, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent conveyance or fraudulent transfer under applicable law. Each Guarantor that makes a payment under its Note Guarantee shall be entitled upon payment in full of all guaranteed obligations under this Indenture to a contribution from each other Guarantor in an amount equal to such other Guarantor's pro rata portion of such payment based on the respective net assets of all the Guarantors at the time of such payment determined in accordance with GAAP.

#### Section 10.03. Execution and Delivery.

To evidence its Note Guarantee set forth in Section 10.01, each Guarantor hereby agrees that a notation of such Note Guarantee substantially in the form included in Exhibit D

shall be endorsed by an Officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents.

Each Guarantor hereby agrees that its Note Guarantee set forth in Section 10.01 hereof shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

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

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.

If required by Section 4.17 hereof, the Issuer shall cause any newly created or acquired Restricted Subsidiary to comply with the provisions of Section 4.17 hereof and this Article 10, to the extent applicable.

#### Section 10.04. Subrogation

Each Guarantor shall be subrogated to all rights of Holders of Notes against the Issuer in respect of any amounts paid by any Guarantor pursuant to the provisions of Section 10.01 hereof; provided that, if an Event of Default has occurred and is continuing, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Issuer under this Indenture or the Notes shall have been paid in full.

#### Section 10.05. Benefits Acknowledged

Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the guarantee and waivers made by it pursuant to its Note Guarantee are knowingly made in contemplation of such benefits.

#### Section 10.06. Release of Note Guarantees

(a) A Note Guarantee by a Guarantor shall be automatically and unconditionally released and discharged, and no further action by such Guarantor, the Issuer or the Trustee is required for the release of such Guarantor's Note Guarantee:

(1) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) the Issuer or a Restricted Subsidiary of the Issuer, if the sale or other disposition does not violate Section 4.10;

(2) in connection with any sale or other disposition of all of the Capital Stock of that 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, if the sale or other disposition does not violate Section 5.01;

(3) if the Issuer designates such Guarantor as an Unrestricted Subsidiary in accordance with Section 4.18;

(4) if the Issuer exercises its legal defeasance or satisfaction and discharge option pursuant to Section 8.01 and Section 11.01, as applicable; or

(5) if such Guarantor is released and discharged from all of its Indebtedness under the Credit Agreement and all of its guarantees of any Indebtedness outstanding under the Credit Agreement;

such Guarantor delivering to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in this Indenture relating to such transaction have been complied with in all material respects.

(b) At the request and at the expense of the Issuer, the Trustee shall execute and deliver any instrument evidencing such release.

Section 10.07. Guarantors May Consolidate, etc., on Certain Terms

(a) Except as otherwise provided in Section 10.07 hereof, no Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Issuer or another Guarantor, unless:

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

(ii) either:

(A) subject to Section 10.07 hereof, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that Guarantor under this Indenture and its Note Guarantee on the terms set forth herein or therein, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee; or

(B) the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of this Indenture, including without limitation, Section 4.10 hereof.

(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 the Guarantor, such successor Person will succeed to and be substituted for the

Guarantor with the same effect as if it had been named herein as a Guarantor. All the Note Guarantees so issued will 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 date of the execution hereof.

(c) Except as set forth in Articles 4 and 5 hereof, and notwithstanding clauses (a)(ii)(A) and (B) above, nothing contained in this Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Issuer or another Guarantor, or will 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.

## ARTICLE 11

### SATISFACTION AND DISCHARGE

#### Section 11.01. Satisfaction and Discharge

This Indenture shall be discharged and shall cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the Notes, as expressly provided for herein) as to all outstanding Notes, when:

(1) either

(a) all the Notes theretofore authenticated and delivered (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) have been delivered to the Trustee for cancellation; or

(b) all the Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash or Cash Equivalents in U.S. dollars, non-callable Government Securities or a combination of cash or Cash Equivalents in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, 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, if any, and interest on the Notes to the date of maturity or redemption;

(2) no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and the grant of any Lien securing such borrowing) and the deposit will not result in a breach or violation of, or constitute a default under,

any other material debt instrument to which the Issuer is a party or by which the Issuer is bound;

(3) the Issuer or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture;

(4) the Issuer has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or on the redemption date, as the case may be; and

(5) 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.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 11.01, the provisions of Section 11.02 and Section 8.06 hereof shall survive.

#### Section 11.02. Application of Trust Money

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 11.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 hereof 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, the Issuer's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01 hereof; provided that if the Issuer has made any payment of principal of, premium, if any, or interest on any Notes because of 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 12

### MISCELLANEOUS

#### Section 12.01. Notices

Any notice or communication by the Issuer, any Guarantor or the Trustee to the others is duly given if in writing and delivered in person or mailed by first-class mail (registered

or certified, return receipt requested), fax or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Issuer and/or any Guarantor:

Allison Transmission, Inc.  
4700 West 10th Street  
Indianapolis, IN 46222  
Attention: Chief Financial Officer

with a copy to:

Allison Transmission Holdings, Inc.  
c/o The Carlyle Group  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004-2505  
Attention: Martin Sumner

and

Onex Corporation  
161 Bay Street  
P.O. Box 700  
Toronto, ON M5J 2S1  
Attention: Kosty Gilis

with a copy to:

Latham & Watkins LLP  
555 Eleventh Street, NW  
Suite 1000  
Washington, DC 20004  
Attention: Rachel W. Sheridan, Esq.

If to the Trustee:

Wells Fargo Bank, National Association  
213 Court Street  
Suite 703  
Middletown, CT 06457  
Fax No.: (860) 704-6219  
Attention: Joseph P. O'Donnell

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; five

calendar days after being deposited in the mail, postage prepaid, if mailed by first-class mail; when receipt acknowledged, if faxed; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

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. 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 within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Issuer mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

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.

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.

#### Section 12.02. Communication by Holders of Notes with Other Holders of Notes

Holders may communicate with other Holders with respect to their rights under this Indenture or the Notes.

#### Section 12.03. Certificate and Opinion as to Conditions Precedent

Upon any request or application by the Issuer or any of the Guarantors to the Trustee to take any action under this Indenture, the Issuer or such Guarantor, as the case may be, shall furnish to the Trustee:

(a) An Officer's Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.04 hereof) 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 satisfied; and

(b) An Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.04 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Notwithstanding the foregoing, no such Opinion shall be given with respect to the delivery of the initial Notes.

Section 12.04. Statements Required in Certificate or Opinion

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to Section 4.04 hereof) 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 to express an informed opinion as to whether or not such covenant or condition has been complied with (and, in the case of an Opinion of Counsel, may be limited to reliance on an Officer's Certificate as to matters of fact); and
- (d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Section 12.05. Rules by Trustee and Agents

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12.06. Personal Liability of Directors, Officers, Employees and Stockholders

No director, officer, employee, incorporator or stockholder of the Issuer, any of its Subsidiaries or any of its direct or indirect parent entities, as such, will have any liability for any obligations of the Issuer or the Guarantors under the Notes, this Indenture or the Note Guarantees or 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 are part of the consideration for issuance of the Notes.

Section 12.07. Governing Law

THIS INDENTURE, THE NOTES AND ANY NOTE GUARANTEE WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 12.08. Waiver of Jury Trial

EACH OF THE ISSUER, THE GUARANTORS AND THE TRUSTEE 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 OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 12.09. Force Majeure

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services.

Section 12.10. 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 its Restricted Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.11. Successors

All agreements of the Issuer in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors. All agreements of each Guarantor in this Indenture shall bind its successors, except as otherwise provided in Section 10.05 hereof.

Section 12.12. Severability

In case any provision in this Indenture or in the Notes 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.

Section 12.13. Counterpart Originals

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.

Section 12.14. Table of Contents, Headings, etc.

The Table of Contents, Cross-Reference Table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following pages]

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

ALLISON TRANSMISSION, INC.

By: /s/ John Hazen

Name: John Hazen

Title: Executive Vice President, Chief Financial Officer,  
Secretary and Treasurer

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Joseph P. O'Donnell

Name: Joseph P. O'Donnell

Title: Vice President

SIGNATURE PAGE - INDENTURE

**SCHEDULE I**

GM corporate allocations  
Stand-alone costs  
Restructuring severance costs  
Legal settlement costs  
Revenue exclusions  
Pension expenses  
Other post-retirement benefit expenses  
Receivable securitization expenses  
Torque-converter warranty reimbursement expenses

**[Face of Senior Toggle Note]**

*[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]*

*[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]*

*[Insert the Regulation S Temporary Global Note Legend, if applicable pursuant to the provisions of the Indenture]*

CUSIP [       ]

ISIN [       ]

GLOBAL NOTE  
representing up to  
\$550,000,000  
11 1/4% Senior Toggle Notes due 2015

No. \_\_\_\_

ALLISON TRANSMISSION, INC.

promises to pay to CEDE & CO. or registered assigns, the principal sum set forth on the Schedule of Exchanges of Interests in the Global Note attached hereto on November 1, 2015.

Issue Date:                   , 20   .

Interest Payment Dates: November 1 and May 1.

Record Dates: October 15 and April 15.

IN WITNESS HEREOF, the Issuer has caused this instrument to be duly executed.

Dated: \_\_\_\_\_, 20\_\_\_\_

ALLISON TRANSMISSION, INC.

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

This is one of the Notes referred to in the within-mentioned Indenture:

WELLS FARGO BANK, NATIONAL ASSOCIATION, as  
Trustee

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

**[Back of Senior Toggle Note]**  
11 1/4 Senior Toggle Notes due 2015

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

**INTEREST.** Allison Transmission, Inc., a Delaware corporation, promises to pay interest on the principal amount of this Note at 11 1/4% plus any PIK Margin Increase (as defined below) per annum from \_\_\_\_\_ until maturity. Interest will be payable semi-annually in arrears on each November and May 1, commencing on \_\_\_\_\_, to the holders of Notes of record on the immediately preceding October 15 and April 15. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from and including the Issue Date; provided that interest with respect to a PIK Payment will accrue in accordance with the terms discussed below.

The Issuer will pay interest (including post-petition interest in any proceeding under Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at the interest rate on the Notes; it shall pay interest (including post-petition interest in any proceeding under Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods), from time to time on demand at the interest rate on the Notes, to the extent lawful. Interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months.

The Issuer will notify the Trustee of the form of interest payment for the first interest period when the Indenture is signed. For any interest period through November 1, 2011, the Issuer may, at its option, elect to pay interest on the Notes (i) entirely in cash ("Cash Interest"), (ii) entirely by increasing the principal amount of the outstanding Notes or by issuing PIK Notes ("PIK Interest") or (iii) 50% as Cash Interest and 50% as PIK Interest ("Partial PIK Interest"). The Issuer must elect the form of interest payment with respect to each interest period by delivering a notice to the Trustee prior to the beginning of each interest period. The Trustee shall promptly deliver a corresponding notice to the Holders. In the absence of such an election for any interest period, interest on the Notes will be payable in the form of the interest payment for the prior interest period. After November 1, 2011, the Issuer will make all interest payments on the Notes in Cash Interest only.

PIK Interest on the Notes will accrue at 11.25%, plus 0.75% (the "PIK Margin Increase") and will be payable (x) with respect to Notes represented by one or more global notes registered in the name of, or held by, The Depository Trust Company ("DTC") or its nominee on the relevant record date, by increasing the principal amount of the outstanding global note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) (or, if necessary, pursuant to the requirements of the depository or otherwise, to authenticate new global notes executed by the Issuer with such increased principal amounts) and (y) with respect to Notes represented by certificated notes, by issuing additional Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable period (rounded up to the nearest whole dollar), and the Trustee will, at the request of the Issuer, authenticate and deliver such additional Notes in certificated form for

original issuance to the holders on the relevant record date, as shown by the records of the register of holders. In the event that the Issuer elects to pay Partial PIK Interest for any interest period, each holder will be entitled to receive Cash Interest in respect of 50% of the principal amount of the Notes held by such Holder on the relevant record date and PIK Interest in respect of 50% of the principal amount of the Notes held by such Holder on the relevant record date. Following an increase in the principal amount of the outstanding Notes represented by global notes as a result of a PIK Payment, such notes will bear interest on such increased principal amount from and after the date of such PIK Payment. Any additional Notes issued in certificated form will be dated as of the applicable interest payment date and will bear interest from and after such date. All additional Notes issued pursuant to a PIK Payment will mature on November 1, 2015, and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any certificated additional Notes will be issued with the description "PIK" on the face of each such additional note.

The amount of interest for each day that the Notes are outstanding (the "Daily Interest Amount") will be calculated by dividing the interest rate in effect for such day by 360 and multiplying the results by the principal amount of the Notes. The amount of interest to be paid on the Notes for each Interest Period will be calculated by adding the Daily Interest Amounts for each day in the Interest Period.

METHOD OF PAYMENT. The Issuer will pay interest on the Notes to the persons who are registered Holders of Notes at the close of business on the Record Dates set forth on the face of this Note (whether or not a Business Day), as the case may be, next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. Payment of Interest may be made 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 and interest and premium, if any, on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Issuer or the Paying Agent. Such payment shall 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.

The Issuer will make any payments of PIK Interest in respect of Notes represented by Global Notes by increasing the principal amount of such Global Notes to the nearest \$1.00 for the benefit of the accounts of Participants specified by the DTC or its nominee. The Issuer will make any payments of PIK Interest in respect of Notes represented by Definitive Notes by issuing PIK Notes in additional notes in the form of Definitive Notes and delivering them to Holders.

PAYING AGENT AND REGISTRAR. Initially, Wells Fargo Bank, National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Issuer may change any Paying Agent or Registrar without notice to the Holders. The Issuer or any of its Subsidiaries may act in any such capacity.

INDENTURE. The Issuer issued the Notes under an Indenture, dated as of October 17, 2007 (the “Indenture”), among Allison Transmission, Inc. and the Trustee. This Note is one of a duly authorized issue of notes of the Issuer designated as its 11 1/4 Senior Toggle Notes due 2015. The Notes are subject to all the terms in the Indenture, and Holders are referred to the Indenture for a statement of such terms. 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 obligations of the Issuer. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of original issuance.

OPTIONAL REDEMPTION.

At any time prior to November 1, 2011, the Issuer may redeem all or a part of the Notes, upon not less than 10 nor more than 60 days’ prior notice mailed by first-class mail to each Holder’s registered address, at a redemption price equal to 100% of the principal amount of Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest to the date of redemption, subject to the rights of the Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date. The Issuer is not prohibited by the terms of the Indenture from acquiring the Notes by means other than redemption, whether pursuant to an issuer tender offer, in open market transactions, or otherwise, assuming such acquisition does not otherwise violate the terms of the Indenture.

At any time prior to November 1, 2010, the Issuer may on any one or more occasions redeem up to 35% of the aggregate principal amount of Notes with the net cash proceeds of one or more Equity Offerings, at 111.25% of the principal amount thereof, plus accrued and unpaid interest, if any, thereon to the redemption date; provided that at least 65% of the aggregate principal amount of the Notes originally issued remains outstanding immediately following such redemption (excluding Notes held by the Issuer or any of its Subsidiaries); and provided, further, that such redemption shall occur within 90 days of the date of the closing of any such Equity Offering.

The Notes will be redeemable, in whole or in part on any one or more occasions, at the option of the Issuer, on or after November 1, 2011, upon not less than 10 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 to the applicable redemption date, if redeemed during the twelve-month period beginning on December 15 of the years indicated below:

<u>YEAR</u>	<u>PERCENTAGE</u>
2011	105.625%
2012	102.813%
2013 and thereafter	100.000%

Any redemption pursuant to this section shall be made pursuant to the provisions of Sections 3.01 through 3.06 of the Indenture.

“Applicable Premium” means, with respect to the Note on any applicable Redemption Date, the greater of:

- (1) 1.0% of the then outstanding principal amount of the Note; and
- (2) the excess of:

(a) the present value at such Redemption Date of (i) the redemption price of the Note as specified above at November 1 2011 plus (ii) all required interest payments due on the Note through November 1, 2011, as the case may be (calculated based on the Cash Interest Rate) (excluding accrued and unpaid interest to such redemption date), computed using a discount rate equal to the Treasury Rate as of such Redemption Date plus 50 basis points; over

(b) the then outstanding principal amount of the Note.

“Treasury Rate” means, as of the applicable redemption date, 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 (519) that has become publicly available at least two Business Days prior to such 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 such redemption date to November 1, 2011; provided, however, that if the period from such redemption date to November 1, 2011 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.

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

NOTICE OF REDEMPTION. Subject to Section 3.03 of the Indenture, notice of redemption will be mailed by first-class mail at least 10 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the redemption date interest ceases to accrue on the Notes or portions thereof called for redemption.

OFFER TO REPURCHASE.

Upon the occurrence of a Change of Control, Article 3 and Section 4.14 of the Indenture shall apply to the extent applicable.

If the Issuer or any of its Restricted Subsidiaries consummates an Asset Sale, Article 3 and Section 4.10 of the Indenture shall apply to the extent applicable.

DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof, provided, however, that PIK Interest issued pursuant to the Indenture shall be issued in denominations of \$1.00 and integral multiples of \$1.00. 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 Issuer need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Issuer need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.

PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

AMENDMENT, SUPPLEMENT AND WAIVER. The Indenture, the Note Guarantees or the Notes may be amended or supplemented as provided in the Indenture.

DEFAULTS AND REMEDIES. The Events of Default relating to the Notes are defined in Section 6.01 of the Indenture. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 30% in principal amount of the then outstanding Notes may declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable immediately without further action or notice. Holders may not enforce the Indenture, the Notes or the Note Guarantees except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate 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 continuing Default (except a Default relating to the payment of principal, premium, if any, or interest) if it determines that withholding notice is in their interest. The 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 and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes (other than nonpayment of principal or interest that has become due solely because of acceleration). The Issuer and each Guarantor is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Issuer is required after becoming aware of any Default, to deliver to the Trustee a statement specifying such Default and what action the Issuer proposes to take with respect thereto.

AUTHENTICATION. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

GOVERNING LAW. THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THE NOTES AND THE NOTE GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Issuer has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to 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.

The Issuer will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to the Issuer at the following address:

Allison Transmission, Inc.  
4700 West 10th Street  
Indianapolis, IN 46222  
Attention: Chief Financial Officer

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: \_\_\_\_\_  
(Insert assignee' legal name)

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

\_\_\_\_\_  
(Print or type assignee's name, address and zip code)

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

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).

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 4.10 or 4.14 of the Indenture, check the appropriate box below:

Section 4.10    Section 4.14

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased:

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

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).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE\*

The initial outstanding principal amount of this Global Note is \$[\_\_\_\_\_]. 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 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</u>	<u>Amount of increase in Principal Amount 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 Note Custodian</u>
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\* This schedule should be included only if the Note is issued in global form.

## FORM OF CERTIFICATE OF TRANSFER

Allison Transmission, Inc.  
 4700 West 10th Street  
 Indianapolis, IN 46222  
 Attention: Chief Financial Officer

Wells Fargo Bank, National Association  
 213 Court Street  
 Suite 703  
 Middletown, CT 06457  
 Fax No.: (860) 704-6219  
 Attention: Joseph P. O'Donnell

Re: 11<sup>3</sup>/<sub>4</sub>% Senior Toggle Notes due 2015

Reference is hereby made to the Indenture, dated as of October 17, 2007 (the "Indenture"), among Allison Transmission, Inc. and the 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 DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States 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 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 Indenture and the Securities Act.

2.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S GLOBAL NOTE OR A 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) if the proposed transfer is being made prior to the expiration of the Restricted Period, 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 Indenture and the Securities Act.

3.  CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 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 Transfer is being effected to the Issuer or a subsidiary thereof;

or

(c)  such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

4.  CHECK IF 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 Private Placement 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 Private Placement 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 (ii) the restrictions on transfer contained in the Indenture and the Private Placement 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 Private Placement 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 Private Placement 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 Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Issuer.

[Insert Name of Transferor]

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

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

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

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

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), or
  - (ii)  Regulation S Global Note (CUSIP), 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), or
  - (ii)  Regulation S Global Note (CUSIP), or
- (b)  a Restricted Definitive Note.

## FORM OF CERTIFICATE OF EXCHANGE

Allison Transmission, Inc.  
 4700 West 10th Street  
 Indianapolis, IN 46222  
 Attention: Chief Financial Officer

Wells Fargo Bank, National Association  
 213 Court Street  
 Suite 703  
 Middletown, CT 06457  
 Fax No.: (860) 704-6219  
 Attention: Joseph P. O'Donnell

Re: 11 1/4% Senior Toggle Notes due 2015

Reference is hereby made to the Indenture, dated as of October 17, 2007 (the "Indenture"), among Allison Transmission, Inc. and the 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 herein, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

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 Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

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 Private Placement Legend 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 and are dated \_\_\_\_\_.

[Insert Name of Transferor]

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

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

## NOTE GUARANTEE

For value received, each of the undersigned hereby unconditionally guarantees, as principal obligor and not only as a surety, to the Holders of Notes the cash payments in United States dollars of principal of, premium, if any, and interest on such Notes (and including additional interest payable thereon) in the amounts and at the times when due and interest on the overdue principal, premium, if any, and interest, if any, of such Notes, if lawful, and the payment or performance of all other Obligations of the Issuer under the Indenture (as defined below) or the Notes, to the Holders of Notes and the Trustee, all in accordance with and subject to the terms and limitations of the Notes, Article Ten of the Indenture and this Note Guarantee. This Note Guarantee will become effective in accordance with Article Ten of the Indenture and its terms shall be evidenced therein. The validity and enforceability of this Note Guarantee shall not be affected by the fact that it is not affixed to any particular Note. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Indenture dated as of October 17, 2007, among Allison Transmission, Inc., a Delaware corporation (the "Company"), the Guarantor[s] party thereto and Wells Fargo Bank, National Association, as trustee (as amended or supplemented, the "Indenture").

This Note Guarantee shall become effective upon consummation of the Acquisition.

THIS NOTE GUARANTEE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. Each Guarantor hereby agrees to submit to the jurisdiction of the courts of the State of New York in any action or proceeding arising out of or relating to this Note Guarantee.

This Note Guarantee is subject to release upon the terms set forth in the Indenture.

[Signatures on following pages]

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

---

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\$3,500,000,000

**CREDIT AGREEMENT**

among

ALLISON TRANSMISSION HOLDINGS, INC.,

ALLISON TRANSMISSION, INC.,  
as Borrower,

The Several Lenders from Time to Time Parties Hereto,

CITICORP NORTH AMERICA, INC.,  
as Administrative Agent,

LEHMAN BROTHERS COMMERCIAL BANK

and

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,  
as Syndication Agents,

SUMITOMO MITSUI BANKING CORPORATION,  
as Documentation Agent and Co-Arranger

and

CITIGROUP GLOBAL MARKETS INC.,  
LEHMAN BROTHERS INC.

and

MERRILL LYNCH & CO., MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,  
as Joint Lead Arrangers and Joint Bookrunners

Dated as of August 7, 2007

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CREDIT AGREEMENT, dated as of August 7, 2007, among ALLISON TRANSMISSION HOLDINGS, INC. (formerly known as Clutch Holdings, Inc.), a Delaware corporation (“Holdings”), ALLISON TRANSMISSION, INC. (formerly known as Clutch Operating Company, Inc.), a Delaware corporation (the “Borrower”), the several banks and other financial institutions or entities from time to time parties to this Agreement (the “Lenders”), CITICORP NORTH AMERICA, INC., as Administrative Agent, LEHMAN BROTHERS COMMERCIAL BANK and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Syndication Agents, SUMITOMO MITSUI BANKING CORPORATION, as Documentation Agent and Co-Arranger and CITIGROUP GLOBAL MARKETS INC., LEHMAN BROTHERS INC. and MERRILL LYNCH & CO., MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Joint Lead Arrangers and Joint Bookrunners.

The parties hereto hereby agree as follows:

## SECTION 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

“Accounting Changes”: as defined in Section 10.16.

“Acquisition”: as defined in the definition of “Permitted Acquisition”.

“Acquisition Agreement”: the Asset Purchase Agreement, dated as of June 28, 2007, between General Motors Corporation, a Delaware corporation, and the Borrower.

“Acquisition Documents”: collectively, the Acquisition Agreement and all schedules, exhibits, annexes and amendments thereto, in each case, as amended, supplemented or otherwise modified from time to time.

“Acquisition Transactions”: the transactions contemplated by the Acquisition Agreement.

“Administrative Agent”: Citicorp North America, Inc., as the administrative agent for the Lenders under this Agreement and the other Loan Documents, together with any of its successors and permitted assigns.

“Affiliate”: as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the power, directly or indirectly to direct or cause the direction of the management and policies of such Person, in either case whether by contract or otherwise.

“Agents”: the collective reference to the Collateral Agent and the Administrative Agent.

“Aggregate Exposure”: with respect to any Lender at any time, an amount equal to (a) until the Closing Date, the aggregate amount of such Lender’s Commitments at such time and (b) thereafter, the sum of (i) the aggregate then unpaid principal amount of such Lender’s Term Loans, (ii) the aggregate amount of such Lender’s Revolving Commitments then in effect or, if the Revolving Commitments have been terminated, the amount of such Lender’s Revolving Extensions of Credit then outstanding and (iii) the aggregate amount of such Lender’s New Loan Commitments then in effect, or if such New Loan Commitments have been terminated, the amount of such Lender’s New Loans.

“Aggregate Exposure Percentage”: with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender’s Aggregate Exposure at such time to the total Aggregate Exposures of all Lenders at such time.

“Agreement”: this Credit Agreement, as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“Allison Transmission Division”: the business unit of the Sellers engaged in (i) researching, developing, designing, manufacturing, distributing, marketing, and selling (A) automatic transmissions for use in vocational vehicles, military vehicles and off-road products, and (B) hybrid propulsion systems for use in vocational vehicles, military vehicles and off-road products, (ii) remanufacturing such automatic transmissions for use in those applications, (iii) manufacturing and selling replacement parts and support equipment and providing related services, in each case, for such automatic transmissions and hybrid propulsion systems, and (iv) researching, developing, designing, manufacturing, distributing, marketing and selling the products, and providing the services, currently researched, developed, designed, manufactured, distributed, marketed, sold or provided, as applicable, at or from certain facilities.

“Annual Operating Budget”: as defined in Section 6.2(c).

“Applicable Margin” or “Applicable Commitment Fee Rate”: for any day, with respect to the Loans (including any Swingline Loan) and the commitment fee payable hereunder, the applicable rate per annum determined pursuant to the Pricing Grid; provided that from the Closing Date until the next change in the Applicable Margin or Applicable Commitment Fee Rate in accordance with the Pricing Grid (a) the Applicable Margin shall be 1.75% with respect to Base Rate Loans and Swingline Loans and 2.75% with respect to LIBO Rate Loans and (b) the Applicable Commitment Fee Rate shall be 0.50%.

“Application”: an application, in such form as the relevant Issuing Lender may specify from time to time, requesting such Issuing Lender to open a Letter of Credit.

“Approved Electronic Communications” means each notice, demand, communication, information, document and other material that any Loan Party is obligated to, or otherwise chooses to, provide to the Administrative Agent pursuant to any Loan Document or the transactions contemplated therein, including (a) any supplement to the Guarantee and Collateral Agreement and any other written Contractual Obligation delivered or required to be delivered in respect of any Loan Document or the transactions contemplated therein and (b) any financial statement, financial and other report, notice, request, certificate and other information material; provided, that, “Approved Electronic Communication” shall exclude (i) any notice of borrowing, Letter of Credit request, Swingline Loan request, notice of conversion or continuation, and any other notice, demand, communication, information, document and other material relating to a request for new, or a conversion of an existing, Loans, (ii) any notice pursuant to Section 2.11 and Section 2.12 (and any other notice relating to the payment of any principal or other amount due under any Loan Document prior to the scheduled date therefor, and (iii) all notices of any Default or Event of Default.

“Approved Electronic Platform” as defined in Section 9.10.

“Approved Fund”: as defined in Section 10.6(b).

“Asset Sale”: any Disposition of Property or series of related Dispositions of Property under Section 7.5(e), 7.5(f), 7.5(m), 7.5(n) or not otherwise permitted by Section 7.5 which yields Net

Cash Proceeds to the Borrower or any of its Domestic Subsidiaries that are Restricted Subsidiaries (valued at the initial principal amount thereof in the case of non-cash proceeds consisting of notes or other debt securities and valued at fair market value in the case of other non-cash proceeds) in excess of \$15,000,000.

“Assignee”: as defined in Section 10.6(b).

“Assignment and Assumption”: an Assignment and Assumption, substantially in the form of Exhibit D.

“Available Amount”: as at any date, the sum of, without duplication:

(a) the aggregate cumulative amount, not less than zero, of the greater of: (i) (A) Excess Cash Flow for each fiscal year ending on or after the Closing Date and on or prior to such date multiplied by (B) 100% minus the Excess Cash Flow Percentage for the relevant fiscal year and (ii) either (A) 50% of Consolidated Net Income on a cumulative basis for the period commencing on the Closing Date and ending on the last day of the most recently ended fiscal quarter for which financial statements were delivered pursuant to Section 6.1 or (B) if the Total Senior Secured Leverage Ratio is less than or equal to 3.0 to 1.0, 75% of Consolidated Net Income for each such fiscal year; provided that for the fiscal year ending December 31, 2007, the results obtained for clauses (i) and (ii) above shall be increased only by the proportionate share of the amounts referred to in clauses (i) and (ii) based on the number of days elapsed since the Closing Date and a fiscal year of 365 days;

(b) the Net Cash Proceeds received after the Closing Date and on or prior to such date from any Equity Issuance by Holdings which, in the case of any such Equity Issuance, have been contributed in cash as common equity to the Borrower; provided that the Available Amount shall not include any Specified Equity Contribution;

(c) the aggregate amount of proceeds received after the Closing Date and on or prior to such date that (i) would have constituted Net Cash Proceeds pursuant to clause (a) of the definition thereof except for the operation of the proviso thereof, (ii) constitutes Net Cash Proceeds and would have been applied to mandatory prepayments under Section 2.12(d) except for the operation of Section 2.12(e) and (iii) constitutes Excess Sale Proceeds;

(d) the aggregate principal amount of any Indebtedness of the Borrower or any Restricted Subsidiary issued after the Closing Date (other than Indebtedness issued to a Restricted Subsidiary), which has been converted into or exchanged for Capital Stock in Holdings or any Parent Company;

(e) in the event any Unrestricted Subsidiary has been redesignated as a Restricted Subsidiary and becomes a Subsidiary Guarantor or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into, the Borrower or any Subsidiary Guarantor, the lesser of the fair market value at the time of such redesignation, combination or transfer of such Unrestricted Subsidiary (or of the assets transferred or conveyed, as applicable) and the aggregate amount of the Investments made with respect to such Unrestricted Subsidiary pursuant to Section 7.7(h) since the designation of such Subsidiary as an Unrestricted Subsidiary; and

(f) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in

cash or Cash Equivalents by the Borrower or any Restricted Subsidiary in respect of any Investments made pursuant to Section 7.7(f)(ii), (h) or (y); in each case, that has not been previously applied pursuant to Section 7.6(b)(x) or (i), Section 7.7(f)(ii)(B), (h) (B) or (y)(B) or Section 7.8(a)(A).

“Available Revolving Commitment”: as to any Revolving Lender at any time, an amount equal to the excess, if any, of (a) such Lender’s Revolving Commitment then in effect (including any New Loan Commitments which are Revolving Commitments) over (b) such Lender’s Revolving Extensions of Credit then outstanding; provided that in calculating any Revolving Lender’s Revolving Extensions of Credit for the purpose of determining such Revolving Lender’s Available Revolving Commitments pursuant to Section 2.9(a), the aggregate principal amount of Swingline Loans then outstanding shall be deemed to be zero.

“Base Rate”: for any day, a rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to the greater of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate as published by the Federal Reserve Bank of New York plus 1/2 of 1%.

“Base Rate Loans”: Loans denominated in Dollars the rate of interest applicable to which is based upon the Base Rate.

“Benefited Lender”: as defined in Section 10.7(a).

“Board”: the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Borrower”: as defined in the preamble to this Agreement.

“Borrowing Date”: any Business Day specified by the Borrower as a date on which the Borrower requests the relevant Lenders to make Loans hereunder.

“Business”: the business activities and operations of the Allison Transmission division of the Sellers and/or its Affiliates.

“Business Day”: (a) for all purposes other than as covered by clause (b) below, a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close and (b) with respect to all notices and determinations in connection with, and payments of principal and interest on, LIBO Rate Loans, any day which is a Business Day described in clause (a) and which is also a day for trading by and between banks in Dollar deposits in the London interbank market.

“Capital Expenditures”: for any period, with respect to any Person, the aggregate of all cash expenditures by such Person for the acquisition or leasing (pursuant to a capital lease but excluding any amount representing capitalized interest) of fixed or capital assets, computer software or additions to equipment (including replacements, capitalized repairs and improvements during such period) which are required to be capitalized under GAAP on a balance sheet of such Person; provided that in any event the term “Capital Expenditures” shall exclude: (i) any Permitted Acquisition and any other Investment expressly permitted pursuant to Section 7.7; (ii) any expenditures to the extent financed with any Reinvestment Deferred Amount; (iii) expenditures for leasehold improvements for which such Person is reimbursed in cash and (iv) capital expenditures to the extent they are made with the proceeds of equity

contributions (other than in respect of Disqualified Capital Stock) made to the Borrower after the Closing Date.

“Capital Lease Obligations”: as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

“Capital Stock”: any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, and any and all equivalent ownership interests in a Person (other than a corporation).

“Cash Equivalents”: (a) United States dollars or, in the case of a Foreign Subsidiary, such local currencies held by it from time to time in the ordinary course of business, (b) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition, (c) certificates of deposit, time deposits and eurodollar time deposits with maturities of 24 months or less from the date of acquisition, bankers’ acceptances with maturities not exceeding 24 months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$250,000,000, (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (b) and (c) above entered into with any financial institution meeting the qualifications specified in clause (c) above, (e) commercial paper having a rating of at least A-1 from S&P or P-1 from Moody’s and, in each case, maturing within 24 months after the date of acquisition and Indebtedness and Preferred Stock issued by Persons with a rating of “A” or higher from S&P or “A2” or higher from Moody’s with maturities of 24 months or less from the date of acquisition, (f) readily marketable direct obligations issued by any state of the United States or any political subdivision thereof having one of the two highest rating categories obtainable from either Moody’s or S&P with maturities of 24 months or less from the date of acquisition, (g) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another rating agency) and in each case maturing within 24 months after the date of creation or acquisition thereof, (h) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody’s, (i) instruments equivalent to those referred to in clauses (a) to (h) above denominated in euro or pound sterling or any other foreign currency comparable in credit quality and tenor to those referred to above and customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by any Restricted Subsidiary organized in such jurisdiction and (j) investment in funds which invest substantially all of their assets in Cash Equivalents of the kinds described in clauses (a) through (i) of this definition.

“Cash Management Obligation”: as applied to the Borrower or any Restricted Subsidiary, any direct or indirect liability, contingent or otherwise, of such Person in respect of cash management services (including treasury, depository, overdraft, credit or debit card, electronic funds transfer and other cash management arrangements) provided after the date hereof (regardless of whether these or similar services were provided prior to the date hereof by the Administrative Agent, any Lender or any Affiliate of any of them) by the Administrative Agent, any Lender or any Affiliate of any of them, including

obligations for the payment of fees, interest, charges, expenses, attorneys' fees and disbursements in connection therewith.

“Certificated Security”: as defined in the Guarantee and Collateral Agreement.

“Change of Control”: as defined in Section 8(j).

“Chattel Paper”: as defined in the Guarantee and Collateral Agreement.

“Closing Date”: the date on which the conditions precedent set forth in Section 5.1 shall have been satisfied or waived and the Term Loans hereunder shall have been funded, which date is August 7, 2007.

“Closing Date Material Adverse Effect”: means any change, event, circumstance, occurrence or development that, individually or in the aggregate with all other such changes, events, circumstances, occurrences or developments, has had, or would reasonably be expected to have, a material adverse effect on or change in (A) the assets, business, results of operations or condition (financial or otherwise) of the Business, taken as a whole; provided, however, that the term “Closing Date Material Adverse Effect” does not, and shall not be deemed to, include any of the following: (i) changes or effects that generally affect the industry or industries in which the Business operates; (ii) changes in securities markets, interest rates or general economic, regulatory or political conditions, including acts of terrorism or the commencement or escalation of any war, whether declared or undeclared, or other hostilities (excluding in the case of clauses (i) and (ii) any changes that have a substantially disproportionate impact on the Business, relative to other businesses, generally, which businesses operate in the same industries or geographies as the Business); (iii) changes or effects arising out of, or attributable to, the announcement of the execution of the Acquisition Agreement or the identity of the Borrower, including with respect to the customers and employees of the Business, compliance by the Sellers with their obligations thereunder or the consummation of the transactions contemplated hereby; (iv) changes or effects due to changes (or proposed or prospective changes) in any Laws (as defined in the Acquisition Agreement) affecting the Business or the Business Assets (as defined in the Acquisition Agreement); (v) changes in GAAP (as defined in the Acquisition Agreement) or other applicable accounting regulations and principles or the interpretation thereof; or (vi) the failure of the Business to meet any internal projections or forecasts (it being understood that the facts or occurrences giving rise or contributing to such failure that are not otherwise excluded from the definition of a “Closing Date Material Adverse Effect” may be taken into account in determining whether there has been a Closing Date Material Adverse Effect and it being further understood that any such failure may be taken into account in determining whether the facts or occurrences giving rise or contributing to such failure are materially adverse to the assets, business, results of operations or condition (financial or otherwise) of the Business, taken as a whole) or (B) the ability of the Sellers to consummate the transactions contemplated by, and discharge their obligations under, the Acquisition Agreement and the Ancillary Documents (as defined in the Acquisition Agreement).

“Closing Date Stock Certificates”: Collateral consisting of stock certificates representing the Capital Stock of the Domestic Subsidiaries that are Restricted Subsidiaries of the Borrower for which a security interest can be perfected by delivering such stock certificates.

“Closing Date UCC Filing Collateral”: Collateral for which a security interest can be perfected by filing a UCC financing statement.

“Code”: the Internal Revenue Code of 1986, as amended from time to time.

“Co-Investors”: any co-investors designated by the Sponsors who may own, directly or indirectly, no more than 15%, in the aggregate, of the Capital Stock of Holdings.

“Collateral”: the meaning assigned to such term in the Guarantee and Collateral Agreement.

“Collateral Agent”: Citicorp North America, Inc., in its capacity as collateral agent for the Secured Parties under the Security Documents and any of its successors and permitted assigns.

“Commitment”: as to any Lender, the sum of the Term Commitments, the Revolving Commitments and the New Loan Commitments (if any) of such Lender.

“Committed Reinvestment Amount”: as defined in the definition of “Reinvestment Prepayment Amount”.

“Commonly Controlled Entity”: an entity, whether or not incorporated, that is under common control with Holdings within the meaning of Section 4001 of ERISA or is part of a group that includes Holdings and that is treated as a single employer under Section 414(b), (c), (m) or (o) of the Code.

“Commonly Controlled Plan”: as defined in Section 4.12(b).

“Compliance Certificate”: a certificate duly executed by a Responsible Officer substantially in the form of Exhibit B.

“Conditional Offer” means any offer for optional or voluntary payment, prepayment, repurchase or redemption of, or otherwise voluntary or optional defeasance of, any Senior Interim Facility Indebtedness or Senior Notes in connection with (i) an Equity Issuance of the Capital Stock of Holdings or any Parent Company, (ii) a Change in Control, or (iii) a sale of all of substantially all of the assets of the Borrower and its Restricted Subsidiaries (taken as a whole).

“Consolidated Current Assets”: of any Person, at any date, all amounts (other than (a) cash and Cash Equivalents and Foreign Cash Equivalents, (b) deferred financing fees and (c) payments for deferred taxes so long as such items described in clauses (b) and (c) are not cash items) that would, in conformity with GAAP, be set forth opposite the caption “total current assets” (or any like caption) on a consolidated balance sheet of the Borrower and its Restricted Subsidiaries at such date.

“Consolidated Current Liabilities”: of any Person, at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption “total current liabilities” (or any like caption) on a consolidated balance sheet of the Borrower and its Restricted Subsidiaries at such date, but excluding (a) the current portion of any Indebtedness of such Person, (b) without duplication, all Indebtedness consisting of Revolving Loans or Swingline Loans, to the extent otherwise included therein and (c) payments for deferred taxes so long as such items described in this clause (c) are not cash items.

“Consolidated Depreciation and Amortization Expense” of any Person for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees, and other noncash charges (excluding any noncash item that represents an accrual or reserve for a cash expenditure for a future period) of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated EBITDA”: Consolidated Net Income of the Borrower and its Restricted Subsidiaries for such period plus, without duplication, the following (in each case, on a consolidated basis, determined in accordance with GAAP, and , other than with respect to clauses (k), (l), (m), and (n) below to the extent deducted in computing Consolidated Net Income):

(a) the provision for taxes based on income or profits, plus franchise or similar taxes, of the Borrower and its Restricted Subsidiaries for such period, plus

(b) Consolidated Net Interest Expense of the Borrower and its Restricted Subsidiaries for such period, plus

(c) Consolidated Depreciation and Amortization Expense of the Borrower and its Restricted Subsidiaries for such period, plus

(d) the after-tax effect of any extraordinary, non-recurring or unusual losses (less all fees and expenses relating thereto), charges or expenses of the Borrower and its Restricted Subsidiaries including for amounts payable under executive employment agreements in connection with the Transactions, plus

(e) the amount of any restructuring charges or reserves of the Borrower and its Restricted Subsidiaries (which, for the avoidance of doubt, shall include retention, severance, systems establishment cost, excess pension charges, contract termination costs, including future lease commitments, and costs to consolidate facilities and relocate employees, stock option or other equity-based compensation expenses, transaction fees and expenses and management fees and expenses), plus

(f) other non-cash charges, expenses or losses of the Borrower and its Restricted Subsidiaries (excluding any such non-cash charge, expense or loss to the extent that it represents an accrual of or reserve for cash expenses in any future period or an amortization of a prepaid cash expense that was paid in a prior period (but including any non-cash expenses or write-downs of deferred revenue resulting from purchase accounting in connection with the Transactions and the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances)), plus

(g) any gain to the extent it represents a reversal of an accrual of or reserve for a potential cash payment in any future period; plus

(h) the amount of management, monitoring, consulting, advisory fees, termination payments and related expenses paid to the Sponsors of the Borrower or any of its Restricted Subsidiaries (or any accruals relating to such fees and related expenses) during such period pursuant to the Services Agreement, plus

(i) without duplication of amounts added back in item (j) below, last twelve month pro forma results for acquisitions (including the commencement of activities constituting such business) and dispositions of the Borrower or any of its Restricted Subsidiaries of business entities or properties or assets (including the termination or discontinuance of activities constituting such business), constituting a division or line of business of any business entity that is the subject of any such acquisition or disposition, including any synergies and cost savings as certified by the Borrower as having been determined in good faith to be reasonably anticipated to be realized within 18 months following any such acquisition or disposition, plus

(j) without duplication of amounts added back in item (i) above other operating improvements and synergies of the Borrower and its Restricted Subsidiaries reasonably expected to result from any acquisition, merger, disposition or operational change, less

(k) extraordinary, non-recurring or unusual gains of the Borrower and its Restricted Subsidiaries (excluding any such gain to the extent that it represents a reversal of an accrual of or reserve for a potential cash payment in any future period (but including any gains resulting from the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances))), less

(l) other non-cash income or gains of the Borrower and its Restricted Subsidiaries (excluding any such non-cash gain to the extent that it represents a reversal of an accrual of or reserve for a potential cash payment in any future period (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, including any non-cash gains resulting from the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances))), less

(m) interest income of the Borrower and its Restricted Subsidiaries (except to the extent deducted in determining Consolidated Net Interest Expense), less

(n) any other non-cash income of the Borrower and its Restricted Subsidiaries.

“Consolidated Net Income”: of any Person for any period, the consolidated net income (or loss) of such Person and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP; provided that in calculating Consolidated Net Income of the Borrower and its consolidated Restricted Subsidiaries for any period, there shall be excluded (i) any after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto), charges or expenses (including relating to the Transactions), severance, relocation costs and curtailments or modifications to pension and post-retirement employee benefit plans, (ii) the cumulative effect of a change in accounting principles during such period, (iii) any after-tax effect of income or loss from disposed of or discontinued operations and any net after-tax gains or losses on disposed of, abandoned or discontinued operations, (iv) any after-tax effect of gains or losses (less all fees and expenses relating thereto) charges or expenses attributable to 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, (v) the net income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, provided that Consolidated Net Income of the Borrower shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) to the referent Person or a Restricted Subsidiary thereof in respect of such period, (vi) the effect of any non-cash items resulting from any amortization, write-up, write-down or write-off of assets (including intangible assets, goodwill and deferred financing costs), or a write down of liabilities in connection with the Transactions or any future acquisition, merger, consolidation or similar transaction (excluding any such non-cash item to the extent that it represents an accrual of or reserve for cash expenditures in any future period except to the extent such item is subsequently reversed), (vii) any after-tax effect of income or loss from the early extinguishment of (A) Indebtedness, (B) obligations with respect to Hedge Agreements or (C) other derivative instruments, (viii) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP, (ix) any non-cash compensation charge or expense recorded from grants of stock appreciation or similar rights, stock options, restricted stock or other rights, (x) 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 Capital Stock (other than any Specified Equity Contribution), refinancing transaction or amendment or modification of any debt instrument (in each case, including any such transaction consummated prior to the Closing 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, (xi) accruals and reserves that are established within twelve months after the Closing Date that are so required to be established as a result of the Transaction in accordance with GAAP, (xii) any net unrealized gain or loss (after any offset) resulting in such period from obligations with respect to Hedge Agreements and the application of Statement of Financial Accounting Standards No. 133, and (xiii) any net unrealized gain or loss (after any offset) resulting in such period from currency translation gains or losses related to currency remeasurements of Indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk). Unless otherwise qualified, all references to “Consolidated Net Income” in this Agreement shall refer to Consolidated Net Income of the Borrower.

“Consolidated Net Interest Expense”: of any Person for any period, the sum, without duplication, of (a) consolidated interest expense of such Person and its Restricted Subsidiaries for such period (including amortization of original issue discount, noncash interest payments (other than imputed interest as a result of purchase accounting), commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing, the interest component of Capital Lease Obligations, net payments (if any) pursuant to interest rate obligations with respect to Hedge Agreements, but excluding amortization of deferred financing fees or expensing of any bridge or other financing fees and (b) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, less (c) interest income actually received in cash for such period. Unless otherwise qualified, all references to “Consolidated Net Interest Expense” in this Agreement shall refer to Consolidated Net Interest Expense of the Borrower.

“Consolidated Total Assets”: the total assets of the Borrower and its Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Borrower that has been delivered pursuant to Section 6.1(a) or (b) or such other Person as may be expressly stated.

“Consolidated Working Capital”: at any date, the difference of (a) Consolidated Current Assets on such date minus (b) Consolidated Current Liabilities on such date; provided that, for purposes of calculating Excess Cash Flow, increases or decreases in Consolidated Working Capital shall be calculated without regard to changes in the working capital balance as a result of non-cash increases or decreases thereof that will not result in future cash payments or receipts or cash payments or receipts in any previous period, in each case, including, without limitation, any changes in Consolidated Current Assets or Consolidated Current Liabilities as a result of (i) any reclassification in accordance with GAAP of assets or liabilities, as applicable, between current and noncurrent and (ii) the effects of purchase accounting.

“Continuing Directors”: the directors of Holdings on the Closing Date and each other director of Holdings, if, in each case, such other director’s nomination for election to the board of directors of Holdings is approved by either Sponsor or any of their Affiliates (excluding any portfolio companies of the Sponsors) or is recommended by at least 51% of the then Continuing Directors or such other director receives the vote of either Sponsor and/or any of their Affiliates (excluding any portfolio companies of the Sponsors) in his or her election by the shareholders of Holdings.

“Contractual Obligation”: as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its Property is bound.

“Default”: any of the events specified in Section 8, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Derivatives Counterparty”: as defined in Section 7.6.

“Differential Amount”: as defined in Section 7.5(j).

“Disposition”: with respect to any Property, any sale, sale and leaseback, assignment, conveyance, transfer or other effectively complete disposition thereof. The terms “Dispose” and “Disposed of” shall have correlative meanings.

“Disqualified Capital Stock”: Capital Stock that (a) requires the payment of any dividends (other than dividends payable solely in shares of Qualified Capital Stock), (b) matures or is mandatorily redeemable or subject to mandatory repurchase or redemption or repurchase at the option of the holders thereof, in each case in whole or in part and whether upon the occurrence of any event, pursuant to a sinking fund obligation on a fixed date or otherwise (including as the result of a failure to maintain or achieve any financial performance standards) or (c) are convertible or exchangeable, automatically or at the option of any holder thereof, into any Indebtedness, Capital Stock or other assets other than Qualified Capital Stock, in the case of clauses (a), (b) and (c), prior to the date that is 91 days after the final scheduled maturity date of any Loans (other than (i) upon payment in full of the Obligations (other than indemnification and other contingent obligations not yet due and owing) or (ii) upon a “change in control”; provided that any payment required pursuant to this clause (ii) is subject the prior repayment in full of the Obligations (other than indemnification and other contingent obligations not yet due and owing) that are accrued and payable and the termination of the Commitments); provided further, however, that if such Capital Stock is issued to any employee or to any plan for the benefit of employees of the Borrower or the Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Capital Stock solely because they may be required to be repurchased by the Borrower in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability.

“Dollars” and “\$”: dollars in lawful currency of the United States.

“Domestic Subsidiary”: any direct or indirect Subsidiary organized under the laws of any jurisdiction within the United States (other than Excluded Subsidiaries).

“Environmental Laws”: any and all applicable laws, rules, orders, regulations, statutes, ordinances, codes or decrees or other legal requirements (including, without limitation, common law) of any international authority, foreign government, the United States, or any state, provincial, local, municipal or other governmental authority, regulating, relating to or imposing liability or standards of conduct concerning protection of the environment, natural resources or human health and safety as it relates to Releases of Materials of Environmental Concern, as has been, is now, or at any time hereafter is, in effect.

“Environmental Liability”: any liability, claim, action, suit, judgment or order under or relating to any Environmental Law for any damages, injunctive relief, losses, fines, penalties, fees, expenses (including reasonable fees and expenses of attorneys and consultants) or costs, whether contingent or otherwise, including those arising from or relating to: (a) compliance or non-compliance with any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Materials of Environmental Concern, (c) exposure to any Materials of Environmental Concern, (d) the Release of any Materials of Environmental Concern or (e) any contract, agreement or

other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Issuance”: as to any Person, any issuance of its Capital Stock in a public or private offering.

“ERISA”: the Employee Retirement Income Security Act of 1974, as amended from time to time.

“Event of Default”: any of the events specified in Section 8; provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Excess Amount”: the amount that any consideration received in connection with Dispositions permitted by Section 7.4(c) or Section 7.5(j)(ii)(A) exceeds the fair market value on the date of such Disposition of the assets or Property subject to such Disposition.

“Excess Cash Flow”: for any fiscal year of the Borrower, the difference, if any, of (a) the sum, without duplication, of (i) Consolidated Net Income for such fiscal year, (ii) the amount of all non-cash charges (including depreciation, amortization and deferred tax expense) deducted in arriving at such Consolidated Net Income, (iii) the amount of the decrease, if any, in Consolidated Working Capital for such fiscal year and (iv) the aggregate net amount of non-cash loss on the Disposition of Property by the Borrower and its Restricted Subsidiaries during such fiscal year (other than sales of inventory in the ordinary course of business), to the extent deducted in arriving at such Consolidated Net Income and minus (b) the sum, without duplication (including, in the case of clauses (ii) and (viii) below, duplication across periods; provided that all or any portion of the amounts referred to in clauses (ii) and (viii) below with respect to a period may be applied in the determination of Excess Cash Flow for any subsequent period to the extent such amounts did not previously result in a reduction of Excess Cash Flow in any prior period), of (i) the amount of all non-cash credits included in arriving at such Consolidated Net Income (including, without limitation, credits included in the calculation of deferred tax assets and liabilities), (ii) the aggregate amount (A) actually paid by the Borrower and its Restricted Subsidiaries in cash during such fiscal year on account of Capital Expenditures and Permitted Acquisitions and (B) committed during such fiscal year to be used to make Capital Expenditures or Permitted Acquisitions which in either case have been actually made or consummated as of the time of determination of Excess Cash Flow for such fiscal year (in each case under this clause (ii) other than to the extent any such Capital Expenditure or Permitted Acquisition is made with the proceeds of new long-term Indebtedness or an Equity Issuance (by the Borrower or any Subsidiary Guarantor) or with the proceeds of any Reinvestment Deferred Amount), (iii) the aggregate amount of all regularly scheduled principal payments or prepayments of Indebtedness (including, without limitation, the Term Loans and the Senior Interim Facility Indebtedness) of the Borrower and its Restricted Subsidiaries made during such fiscal year (other than in respect of any revolving credit facility to the extent there is not an equivalent permanent reduction in commitments thereunder and other than to the extent any such prepayments are the result of the incurrence of additional Indebtedness and other than optional prepayments of the Term Loans and optional prepayments of Revolving Loans and Swingline Loans to the extent accompanied by permanent optional reductions of the Revolving Commitments), (iv) the amount of the increase, if any, in Consolidated Working Capital for such fiscal year, (v) the aggregate net amount of non-cash gain on the Disposition of Property by the Borrower and its Restricted Subsidiaries during such fiscal year (other than sales of inventory in the ordinary course of business), to the extent included in arriving at such Consolidated Net Income, (vi) the aggregate amount of expenditures for the payment of financing fees (including fees and expenses incurred in connection with the Transactions) actually made by the Borrower and its Restricted Subsidiaries in cash during such period to the extent that such expenditures are not expensed during such period, (vii) purchase price adjustments paid or received in connection with

the Acquisition Transactions or any Permitted Acquisition, (viii) the amount of Investments (net of the proceeds of any Indebtedness, Equity Issuance of Reinvestment Deferral Amount used for such Investment) made during such period pursuant to paragraphs (d), (f), (h), (l), (o), (v), but only to the extent not excluded by (xi) below, and (y) of Section 7.7 or committed during such period to be used to make Investments pursuant to Section 7.7 which have been actually made as of the time of determination of Excess Cash Flow for such period (but excluding Investments among the Borrower and its Restricted Subsidiaries), (ix) the amount (determined by the Borrower) of such Consolidated Net Income which is mandatorily prepaid or reinvested pursuant to Section 2.12(b) (or as to which a waiver of the requirements of such Section applicable thereto has been granted under Section 10.1) prior to the date of determination of Excess Cash Flow for such fiscal year as a result of any Asset Sale or Recovery Event, (x) the aggregate amount of any premium or penalty actually paid in cash that is required to be made in connection with any prepayment of Indebtedness, (xi) permitted Restricted Payments made in cash by the Borrower during such period and permitted Restricted Payments made by any Restricted Subsidiary to any person other than the Borrower or any of the Restricted Subsidiaries during such period, in each case, to the extent permitted by Section 7.6 (except to the extent made with amounts available under Section 7.6(b)), (xii) cash expenditures in respect of Hedge Agreements during such period to the extent not deducted in arriving at such Consolidated Net Income, (xiii) the amount of taxes (including penalties and interest) paid in cash in such period, (xiv) the amount of cash payments made in respect of pensions and other post-employment benefits in such period to the extent not deducted in arriving at such Consolidated Net Income and (xv) cash payments made pursuant to or amounts netted against accounts receivable with respect to Contractual Obligations with any Governmental Authority in connection with refunds or rebates related to overhead charges or expenses, in each case, to the extent such charges or expenses are not deducted in arriving at such Consolidated Net Income.

“Excess Cash Flow Application Date”: as defined in Section 2.12(c).

“Excess Cash Flow Percentage”: for any fiscal year, 50%; provided that the Excess Cash Flow Percentage shall be reduced to 25% if the Total Senior Secured Leverage Ratio as of the last day of such fiscal year is not greater than 4.00 to 1.0 and reduced further to 0% if the Total Senior Secured Leverage Ratio as of the last day of such fiscal year is not greater than 3.50 to 1.0.

“Excess Sale Proceeds”: as defined in Section 2.12(b).

“Excluded Subsidiary”: Any indirect Subsidiary of the Borrower directly owned by a Foreign Subsidiary but only to the extent that such Subsidiary becoming a Subsidiary Guarantor would result in adverse tax consequences to the Borrower or any of its Restricted Subsidiaries.

“Facility”: each of (a) the Term Commitments and the Term Loans made thereunder (the “Term Facility”) and (b) the Revolving Commitments and the extensions of credit made thereunder (the “Revolving Facility”).

“Federal Funds Effective Rate”: for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it.

“Fee Letter”: the fee letter dated as of June 26, 2007 among Holdings and the Joint Lead Arrangers.

**“Fee Payment Date”**: commencing on December 31, 2007, the last day of each March, June, September and December and the last day of the Revolving Commitment Period.

**“Foreign Cash Equivalents”**: in each case, to the extent held by any Foreign Subsidiary of the Borrower, (a) certificates of deposit or bankers acceptances of, and bank deposits with, any bank organized under the laws of any country that is a member of the European Economic Community or Canada or any subdivision thereof, whose short-term commercial paper rating from S&P is at least A-1 or the equivalent thereof or from Moody’s is at least P-1 or the equivalent thereof, in each case with maturities of not more than six months from the date of acquisition, (b) commercial paper maturing not more than one year from the date of creation thereof and, at the time of acquisition, having the highest rating obtainable from either S&P’s or Moody’s and (c) shares of any money market mutual fund that has its assets invested continuously in the types of investments referred to in clauses (a) and (b) above.

**“Foreign Holdings”**: Allison Transmission International, L.L.C. (formerly known as Clutch International, L.L.C.) and Allison Transmission International Holdings, L.L.C. (formerly known as Clutch International Holdings, L.L.C.).

**“Foreign Subsidiary”**: any Subsidiary of the Borrower that is not a Domestic Subsidiary.

**“Funded Debt”**: with respect to any Person, all Indebtedness of such Person of the types described in clauses (a), (b) and (e) of the definition of “Indebtedness”.

**“Funding Office”**: the office specified from time to time by the Administrative Agent as its funding office by notice to the Borrower and the Lenders.

**“GAAP”**: generally accepted accounting principles in the United States as in effect from time to time.

**“Governmental Authority”**: any nation or government, any state, province or other political subdivision thereof and any governmental entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and, as to any Lender, any securities exchange and any self regulatory organization (including the National Association of Insurance Commissioners).

**“Guarantee and Collateral Agreement”**: the Guarantee and Collateral Agreement to be executed and delivered by the Borrower, Holdings and each Subsidiary Guarantor, substantially in the form of Exhibit A, as the same may be amended, supplemented or otherwise modified from time to time.

**“Guarantee Obligation”**: as to any Person (the “guaranteeing person”), any obligation of (a) the guaranteeing person or (b) another Person (including, without limitation, any bank under any letter of credit) pursuant to which the guaranteeing person has issued a guarantee, reimbursement, counterindemnity or similar obligation, in either case guaranteeing or by which such Person becomes contingently liable for any Indebtedness (the “primary obligations”) of any other third Person (the “primary obligor”) in any manner, whether directly or indirectly, including, without limitation, any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) 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 or (iv) otherwise to assure or hold harmless

the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets or any Investment permitted under this Agreement. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Guarantors": the collective reference to Holdings and the Subsidiary Guarantors.

"Hedge Agreements": all agreements with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions, in each case, entered into by the Borrower or any Restricted Subsidiary.

"Holdings": as defined in the preamble hereto.

"Holdings IPO": the issuance by Holdings or any Parent Company of its common Capital Stock in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act whether alone or in connection with a secondary public offering.

"Immaterial Subsidiary": on any date, any Subsidiary of the Borrower that (i) has, on a consolidated basis with its Subsidiaries, less than 5% of consolidated assets and 5% of annual consolidated revenues of the Borrower and its Restricted Subsidiaries as reflected on the most recent financial statements delivered pursuant to Section 6.1 prior to such date and (ii) (other than with respect to determining whether an Event of Default under Sections 8(f) or 8(h) has occurred and is continuing) has been designated as such by the Borrower in a written notice delivered to the Administrative Agent (other than any such Subsidiary as to which the Borrower has revoked such designation by written notice to the Administrative Agent); provided that at no time shall all Immaterial Subsidiaries have in the aggregate consolidated assets or annual consolidated revenues (as reflected on the most recent financial statements delivered pursuant to Section 6.1 prior to such time) in excess of 5% of consolidated assets or annual consolidated revenues, respectively, of the Borrower and its Restricted Subsidiaries.

"Increased Amount Date": as defined in Section 2.25.

"Indebtedness": of any Person shall mean, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person for the deferred purchase price of property or services, (d) all Guarantees by such Person of Indebtedness of others, (e) all Capital Lease Obligations of such Person, (f) all payments that such Person would have to make in the event of an early termination, on the date Indebtedness of such Person is being determined in respect of outstanding Hedge Agreements (such payments in respect of any Hedge Agreement with a counterparty being calculated subject to and in accordance with any netting provisions in such Hedge Agreement) and (g) the principal component of all

obligations, contingent or otherwise, of such Person (i) as an account party in respect of letters of credit (other than any letters of credit, bank guarantees or similar instrument in respect of which a back-to-back letter of credit has been issued under or permitted by this Credit Agreement) and (ii) in respect of bankers' acceptances; provided that Indebtedness shall not include (A) trade payables, accrued expenses and intercompany liabilities arising in the ordinary course of business, (B) prepaid or deferred revenue arising in the ordinary course of business, (C) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase price of an asset to satisfy unperformed obligations of the seller of such asset or (D) earn-out obligations until such obligations become a liability on the balance sheet of such Person in accordance with GAAP. The Indebtedness of any Person shall include the Indebtedness of any partnership in which such Person is a general partner, other than to the extent that the instrument or agreement evidencing such Indebtedness expressly limits the liability of such Person in respect thereof.

"Indebtedness for Borrowed Money": to the extent the following would be reflected on a consolidated balance sheet of the Borrower and its Restricted Subsidiaries prepared in accordance with GAAP, the principal amount of all Indebtedness of the Borrower and its Restricted Subsidiaries with respect to (i) borrowed money, evidenced by debt securities, debentures, acceptances, notes or other similar instruments, (ii) Capital Lease Obligations and (iii) reimbursement obligations for letters of credit and financial guarantees (without duplication) (other than ordinary course of business contingent reimbursement obligations); provided that the Obligations shall not constitute Indebtedness for Borrowed Money.

"Insolvency": with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvent": pertaining to a condition of Insolvency.

"Instrument": as defined in the Guarantee and Collateral Agreement.

"Intellectual Property": the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, copyrights, copyright licenses, domain names, patents, patent licenses, trademarks, trademark licenses, trade names, technology, know-how and processes, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Interest Payment Date": (a) commencing on December 31, 2007, as to any Base Rate Loan (other than any Swingline Loan), the third Business Day following the last day of each March, June, September and December to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any LIBO Rate Loan having an Interest Period of three months or less, the last day of such Interest Period, (c) as to any LIBO Rate Loan having an Interest Period longer than three months, each day that is three months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period, (d) as to any Loan (other than any Revolving Loan that is a Base Rate Loan and any Swingline Loan), the date of any repayment or prepayment made in respect thereof and (e) as to any Swingline Loan, the day that such Loan is required to be repaid.

"Interest Period": as to any LIBO Rate Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such LIBO Rate Loan and ending one, two, three or six or (if available to all Lenders under the relevant Facility) nine or twelve months thereafter, as selected by the Borrower in its notice of borrowing or notice of continuation or conversion, as the case may be, given with respect thereto; and (b) thereafter, each period commencing on the last day

of the next preceding Interest Period applicable to such LIBO Rate Loan and ending one, two, three or six or (with the consent of each affected Lender under the relevant Facility) nine or twelve months thereafter, as selected by the Borrower by irrevocable notice to the Administrative Agent not later than 1:00 P.M., New York City time, on the date that is two Business Days prior to the last day of the then current Interest Period with respect thereto; provided that all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(ii) no Interest Period shall extend beyond the scheduled Revolving Termination Date or beyond the date final payment is due on the Term Loans; and

(iii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month.

“Investments”: as defined in Section 7.7.

“Issuing Lenders”: (a) Citibank, N.A. and (b) any other Revolving Lender from time to time designated by the Borrower as an Issuing Lender with the consent of such other Revolving Lender in its sole discretion.

“Joinder Agreement”: an agreement substantially in the form of Exhibit H.

“Joint Lead Arrangers”: the collective reference to Citigroup Global Markets Inc., Lehman Brothers Inc. and Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated.

“Joint Venture”: a corporation, limited liability company, joint venture or similar limited liability legal entity formed in order to conduct a common venture or enterprise between two or more Persons, which legal entity does not constitute a Subsidiary.

“L/C Commitment”: \$50,000,000.

“L/C Obligations”: at any time, an amount equal to the sum of (a) the aggregate then undrawn and unexpired amount of the then outstanding Letters of Credit and (b) the aggregate amount of drawings under Letters of Credit that have not then been reimbursed.

“L/C Participants”: the collective reference to all the Revolving Lenders other than the applicable Issuing Lender.

“Leases”: as defined in Section 4.20(a).

“Lenders”: as defined in the preamble hereto.

“Letters of Credit”: as defined in Section 3.1(a).

“LIBO Base Rate”: with respect to any LIBO Rate Advance, for any Interest Period, the rate determined by the Administrative Agent to be the offered rate for deposits in Dollars for the

applicable Interest Period appearing on the Reuters LIBOR01 Page as of 11:00 A.M., London time, on the second full Business Day next preceding the first day of each Interest Period. In the event that such rate does not appear on the Reuters LIBOR01 Page (or otherwise on the Reuters screen), the LIBO Base Rate for the purposes of this definition shall be determined by reference to such other comparable publicly available service for displaying London interbank offered rates as may be reasonably selected by the Administrative Agent, or, in the absence of such availability, the LIBO Base Rate shall be the rate of interest reasonably determined by the Administrative Agent to be the rate per annum at which deposits in Dollars are offered by the principal office of Citibank, N.A. in London to major banks in the London interbank market at 11:00 A.M. (London time) two Business Days before the first day of such Interest Period in an amount substantially equal to the LIBO Rate Loan of Citibank, N.A. for a period equal to such Interest Period.

“LIBO Rate”: with respect to each day during each Interest Period pertaining to a LIBO Rate Loan, a rate per annum determined for such day in accordance with the following formula (rounded upward to the nearest 1/100th of 1%):

$$\frac{\text{(i) LIBO Base Rate}}{\text{(ii) 1.00 – LIBO Rate Reserve Requirements}}$$

“LIBO Rate Loans”: Loans the rate of interest applicable to which is based upon the LIBO Rate.

“LIBO Rate Reserve Requirements”: for any day as applied to a LIBO Rate Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.

“LIBO Rate Tranche”: the collective reference to LIBO Rate Loans under a particular Facility the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

“Lien”: any mortgage, pledge, hypothecation, collateral assignment, encumbrance, lien (statutory or other), charge or other security interest or any other security agreement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

“Loan”: any loan made by any Lender pursuant to this Agreement.

“Loan Documents”: the collective reference to this Agreement, the Security Documents, the Notes (if any) and any amendment, waiver, supplement or other modification to any of the foregoing.

“Loan Parties”: Holdings, the Borrower and each Subsidiary Guarantor.

“Majority Facility Lenders”: with respect to any Facility, the holders of more than 50% of the aggregate unpaid principal amount of the Term Loans or the Revolving Extensions of Credit, as the case may be, outstanding under such Facility (or, in the case of the Revolving Facility, prior to any

termination of the Revolving Commitments under such Facility, the holders of more than 50% of the Revolving Commitments under such Facility).

“Majority Revolving Facility Lenders”: the Majority Facility Lenders in respect of the Revolving Facility.

“Majority Term Facility Lenders”: the Majority Facility Lenders in respect of the Term Facility.

“Material Adverse Effect”: a material adverse effect on (a) the business, operations, property or financial condition of the Borrower and its Restricted Subsidiaries, taken as a whole or (b) the validity or enforceability of the Loan Documents or the material rights and remedies of the Administrative Agent and the Lenders thereunder, in each case, taken as a whole.

“Material Subsidiary”: any Subsidiary that is not an Immaterial Subsidiary.

“Materials of Environmental Concern”: any material, substance or waste classified, characterized or regulated as toxic, hazardous, radioactive or as a contaminant, pollutant or words of similar meaning under Environmental Laws, including gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products, polychlorinated biphenyls, urea-formaldehyde insulation, asbestos or mold or other fungi.

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

“Mortgage”: any mortgage, deed of trust, hypothec or other similar document made by any Loan Party in favor of, or for the benefit of, the Collateral Agent for the benefit of the Secured Parties, in form and substance reasonably satisfactory to the Administrative Agent and the Borrower (taking into account the law of the jurisdiction in which such mortgage, deed of trust, hypothec or similar document is to be recorded), as the same may be amended, supplemented or otherwise modified from time to time.

“Multiemployer Plan”: a Plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Net Cash Proceeds”: (a) in connection with any Asset Sale or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received) of such Asset Sale or Recovery Event received by the Borrower or any Domestic Subsidiary that is a Restricted Subsidiary, net of attorneys’ fees, accountants’ fees, investment banking fees, consulting fees, amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset which is the subject of such Asset Sale or Recovery Event (other than any Lien pursuant to a Security Document) and other customary fees and expenses actually incurred by the Borrower or any Domestic Subsidiary that is a Restricted Subsidiary in connection therewith and net of taxes paid or reasonably estimated to be payable by the Borrower or any Domestic Subsidiary that is a Restricted Subsidiary as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements); provided that at any time during the period following an Asset Sale and prior to the Reinvestment Prepayment Date, if, on a pro forma basis after giving effect to such Asset Sale and the application of the proceeds thereof, the Total Senior Secured Leverage Ratio is less than 4.00 to 1.00, up to \$200,000,000 of such proceeds in the aggregate shall not constitute Net Cash Proceeds and (b) in connection with any Equity

Issuance (other than in connection with a Specified Equity Contribution) or issuance or sale of debt securities or instruments or the incurrence of Funded Debt (other than pursuant to the Loan Documents), the cash proceeds received from such issuance or incurrence, net of attorneys' fees, investment banking fees, accountants' fees, consulting fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith.

“New Lender”: as defined in Section 2.25.

“New Loan Commitments”: as defined in Section 2.25.

“New Loans”: any loan made by any New Lender pursuant to this Agreement.

“New Revolving Loans”: as defined in Section 2.25.

“New Term Lender”: a Lender that has a New Term Loan.

“New Term Loans”: as defined in Section 2.25.

“Non-Excluded Taxes”: as defined in Section 2.20(a).

“Non-Guarantor Subsidiary”: any Subsidiary of the Borrower which is not a Subsidiary Guarantor.

“Non-Recourse Debt”: Indebtedness (a) no default with respect to which would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Borrower or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity and (b) as to which the lenders or holders thereof will not have any recourse to the capital stock or assets of the Borrower or any of its Restricted Subsidiaries.

“Non-US Lender”: as defined in Section 2.20(e).

“Note”: any promissory note evidencing any Loan, substantially in the Form of Exhibit I.

“Obligations”: the unpaid principal of and interest on (including, without limitation, interest accruing after the maturity of the Loans and Reimbursement Obligations and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans, the Reimbursement Obligations and all other obligations and liabilities of the Borrower to the Administrative Agent, the Collateral Agent or to any Lender (or, in the case of Specified Hedge Agreements or Cash Management Obligations of the Borrower or any of its Restricted Subsidiaries to the Administrative Agent, the Collateral Agent, any Lender or any affiliate of any Lender), whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, in each case, which may arise under, out of, or in connection with, this Agreement, any other Loan Document, the Fee Letter, the Letters of Credit, any Specified Hedge Agreement, any Cash Management Obligations or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including, without limitation, all fees, charges and disbursements of counsel to the Administrative Agent or any Lender that are required to be paid by the Borrower pursuant hereto) or otherwise; provided that (a) obligations of the Borrower or any of its Restricted Subsidiaries under any Specified Hedge Agreement or Cash Management Obligations shall be secured and guaranteed pursuant to the Security Documents only to the extent that, and for so long as, the other Obligations are so secured

and guaranteed and (b) any release of Collateral or Guarantors effected in the manner permitted by this Agreement shall not require the consent of holders of obligations under Specified Hedge Agreements or Cash Management Obligations.

“Other Taxes”: any and all present or future stamp or documentary taxes or any other excise or property taxes, intangible taxes, mortgage recording, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Owned Property”: as defined in Section 4.20(a).

“Parent Company”: any direct or indirect parent of Holdings.

“Participant”: as defined in Section 10.6(c).

“Payment Amount”: as defined in Section 3.5.

“PBGC”: the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

“Permitted Acquisition”: (a) any acquisition (including, if applicable, in the case of any Intellectual Property, by way of license) approved by the Required Lenders, (b) any acquisition made solely with the Net Cash Proceeds of any Equity Issuance (other than Disqualified Capital Stock) or Net Cash Proceeds which have increased the Available Amount or (c) any acquisition of a majority controlling interest in the Capital Stock, or all or substantially all of the assets, of any Person, or of all or substantially all of the assets constituting a division, product line or business line of any Person (each, an “Acquisition”), if such Acquisition described in this clause (c) complies with the following criteria:

(i) No Event of Default shall be in effect immediately prior or after giving effect to such Acquisition.

(ii) If the total consideration in respect of such acquisition exceeds \$50,000,000, the Borrower shall have delivered to the Administrative Agent at least 5 Business Days prior to such Acquisition a certificate of the Borrower signed by a Responsible Officer to such effect, together with all relevant financial information for such Subsidiary or assets including current financial projections in respect of the Person, division, product line or line of business acquired in such Acquisition.

“Permitted Asset Swap”: the substantially concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Borrower or any of its Restricted Subsidiaries and another Person.

“Permitted Business”: the business and any services, activities or businesses incidental or directly related or similar to, any line of business engaged in by the Borrower and its Subsidiaries as of the date hereof or any business activity that is a reasonable extension, development or expansion thereof or ancillary thereto.

“Permitted Investors”: the collective reference to the Sponsors, any Co-Investors and their respective Affiliates (but excluding, any portfolio companies of the foregoing) and the directors, officers and other employees of Holdings and its Subsidiaries.

“Permitted Joint Venture”: each Joint Venture:

(a) hereafter formed or entered into by the Borrower or any of its Restricted Subsidiaries with another Person;

(b) that does not own any Stock in the Borrower or any Restricted Subsidiary nor at any time itself have been a Restricted Subsidiary; and

(c) in respect of which all Indebtedness or other obligations (in each case whether contingent or otherwise), including any contractually binding commitment to make future capital contributions, assumed by any the Borrower or any Restricted Subsidiary in respect thereof can be quantified.

“Permitted Refinancings”: with respect to any Person, refinancings, replacements, modifications, refundings, renewals or extensions of Indebtedness provided that (i) there is no increase in the principal amount (or accrued value) thereof (excluding accrued interest, fees, discounts, premiums and expenses), (ii) the weighted average life to maturity of such Indebtedness is greater than or equal to the shorter of (A) the weighted average life to maturity of the Indebtedness being refinanced and (B) the weighted average life to maturity that would result if all payments of principal on the Indebtedness being refinanced that were due on or after the date that is one year following the Term Maturity Date were instead due one year following the Term Maturity Date, (iii) if the Indebtedness being refinanced, refunded, modified, renewed or extended is subordinated in right of payment to the Obligations, such refinancing, refunding, modification, renewal or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced, refunded, modified, renewed or extended, (iv) the terms and conditions (including, if applicable, as to collateral) of any such refinanced, refunded, modified, renewed or extended Indebtedness are not materially less favorable to the Lenders than the terms and conditions of the Indebtedness being modified, refinanced, refunded, renewed or extended, (v) no Event of Default shall have occurred and be continuing or no Event of Default or Default would result from any such refinancing, refunding, modification, renewal or extension and (vi) with respect to any such Indebtedness that is secured, neither the Borrower nor any Restricted Subsidiary shall be an obligor or guarantor of any such refinancings, replacements, refundings, renewals or extensions except to the extent that such Person was such an obligor or guarantor in respect of the applicable Indebtedness on the date hereof.

“Person”: an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Plan”: at a particular time, any employee benefit plan as defined in Section 3(3) of ERISA and in respect of which Holdings, the Borrower or any of its Restricted Subsidiaries is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Pledged Securities”: as defined in the Guarantee and Collateral Agreement.

“Pledged Stock”: as defined in each of the Guarantee and Collateral Agreement.

“Pricing Grid”: the tables set forth below, as applicable:

For the Revolving Credit Facility (subject to any adjustment pursuant to Section 7.1(a)):

<u>Total Senior Secured Leverage Ratio</u>	<u>Applicable Interest Margin for LIBO Rate Loans</u>	<u>Applicable Margin for Base Rate Loans</u>	<u>Applicable Commitment Fee Rate</u>
>4.00:1.00	2.75%	1.75%	0.50%
£4.00:1.00 and >3.50:1.00	2.50%	1.50%	0.50%
£3.50:1.00	2.25%	1.25%	0.375%

For the Term Loan Facility (subject to any adjustment pursuant to Section 7.1(a)):

<u>Total Senior Secured Leverage Ratio</u>	<u>Applicable Interest Margin for LIBO Rate Loans</u>	<u>Applicable Interest Margin for Base Rate Loans</u>
>3.50:1.00	2.75%	1.75%
£3.50:1.00	2.50%	1.50%

Changes in the Applicable Margin with respect to Loans or the Applicable Commitment Fee Rate resulting from changes in the Total Senior Secured Leverage Ratio shall become effective on the date on which financial statements are delivered to the Administrative Agent pursuant to Section 6.1 and shall remain in effect until the next change to be effected pursuant to this paragraph. If any financial statements referred to above are not delivered within the time periods specified in Section 6.1, then, at the option of (and upon the delivery of notice (telephonic or otherwise) by) the Administrative Agent or the Required Lenders, until such financial statements are delivered, the Total Senior Secured Leverage Ratio as at the end of the fiscal period that would have been covered thereby shall for the purposes of this definition be deemed to be greater than 4.00 to 1:00 for the Revolving Credit Facility and greater than 3.5 to 1:00 for the Term Loan Credit Facility. In addition, at all times while an Event of Default set forth in Section 8(a) or 8(f) shall have occurred and be continuing, the Total Senior Secured Leverage Ratio shall for the purposes of the Pricing Grid be deemed to be greater than 4:00 to 1:00 for the Revolving Credit Facility and greater than 3:50 to 1:00 for the Term Loan Credit Facility.

“Prime Rate”: the prime lending rate as set forth on the British Banking Association Telerate Page 5 (or such other comparable page as may, in the reasonable opinion of the Administrative Agent, replace such page for the purpose of displaying such rate), as in effect from time to time. Any change in the Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective as of the opening of business on the effective day of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

“Property”: any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Capital Stock.

“Qualified Capital Stock”: any Capital Stock that is not Disqualified Capital Stock.

“Rate-Based Cure”: as defined in Section 7.1(a).

“Real Property”: as defined in Section 4.20(a).

“Recovery Event”: any settlement of or payment in respect of any property or casualty insurance claim or any condemnation or eminent domain proceeding relating to any asset of the Borrower or any Restricted Subsidiary, in an amount for each such event exceeding \$20,000,000.

“Refunded Swingline Loans”: as defined in Section 2.7(b).

“Register”: as defined in Section 10.6(b)(iv).

“Regulation U”: Regulation U of the Board as in effect from time to time.

“Reimbursement Obligation”: the obligation of the Borrower to reimburse an Issuing Lender pursuant to Section 3.5 for amounts drawn under Letters of Credit issued by such Issuing Lender.

“Reinvestment Deferred Amount”: with respect to any Reinvestment Event, the aggregate Net Cash Proceeds received by the Borrower or a Restricted Subsidiary for its own account in connection therewith that are not applied to prepay the Term Loans pursuant to Section 2.12 as a result of the delivery of a Reinvestment Notice.

“Reinvestment Event”: any Asset Sale or Recovery Event in respect of which a Loan Party has delivered a Reinvestment Notice.

“Reinvestment Notice”: a written notice signed on behalf of the Borrower by a Responsible Officer stating that no Event of Default has occurred and is continuing and the Borrower and its Restricted Subsidiaries (directly or indirectly through a Subsidiary) intends and expects to use all or a specified portion of the Net Cash Proceeds of an Asset Sale or Recovery Event to acquire assets useful in the Business.

“Reinvestment Prepayment Amount”: with respect to any Reinvestment Event, the Reinvestment Deferred Amount relating thereto less any amount contractually committed by the Borrower and its Restricted Subsidiaries (directly or indirectly through a Subsidiary) to be expended prior to the relevant Reinvestment Prepayment Date (a “Committed Reinvestment Amount”), or actually expended prior to such date, in each case to acquire assets useful in the Business.

“Reinvestment Prepayment Date”: with respect to any Reinvestment Event, the earlier of (i) the date occurring 15 months after such Reinvestment Event and (ii) with respect to any portion of a Reinvestment Deferred Amount, the date on which the Borrower or the applicable Restricted Subsidiary shall have determined not to acquire assets useful in the Business with such portion of such Reinvestment Deferred Amount.

“Related Business Assets”: assets (other than cash or Cash Equivalents) used or useful in a Permitted Business; provided that any assets received by the Borrower or a Restricted Subsidiary in exchange for assets transferred by the Borrower or a Restricted Subsidiary shall not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person would become a Restricted Subsidiary.

“Related Obligation”: as defined in Section 9.9.

“Release”: any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within or upon any building, structure or facility.

“Reorganization”: with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

“Reportable Event”: any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty day notice period is waived by the PBGC in accordance with the regulations thereunder.

“Required Lenders”: at any time, the holders of more than 50% of (a) until the Closing Date, the Commitments then in effect and (b) thereafter, the sum of (i) the aggregate unpaid principal amount of the Term Loans then outstanding and (ii) the Revolving Commitments then in effect or, if the Revolving Commitments have been terminated, the Revolving Extensions of Credit then outstanding.

“Required Prepayment Lenders”: the Majority Facility Lenders in respect of the Term Facility.

“Requirement of Law”: as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Responsible Officer”: the chief executive officer, president, chief financial officer (or similar title), controller or treasurer (or similar title) of the Borrower or (with respect to Section 6.7) any Restricted Subsidiary and, with respect to financial matters, the chief financial officer (or similar title), controller or treasurer (or similar title) of the Borrower.

“Restricted Payments”: as defined in Section 7.6.

“Restricted Subsidiary”: any Subsidiary of the Borrower that is not an Unrestricted Subsidiary.

“Revolving Commitment Period”: the period from and including the Closing Date to the Revolving Termination Date.

“Revolving Commitments”: as to any Lender, the obligation of such Lender, if any, to make Revolving Loans and participate in Swingline Loans and Letters of Credit in an aggregate principal and/or face amount not to exceed the amount set forth under the heading “Revolving Commitment” on Schedule I, or, as the case may be, in the Assignment and Assumption pursuant to which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof. The original aggregate amount of the Revolving Commitments is \$400,000,000.

“Revolving Extensions of Credit”: as to any Revolving Lender at any time, an amount equal to the amount of the sum of (a) the aggregate principal amount of all Revolving Loans held by such Lender then outstanding, (b) such Lender’s Revolving Percentage of the L/C Obligations then outstanding and (c) such Lender’s Revolving Percentage of the aggregate principal amount of Swingline Loans then outstanding.

“Revolving Facility”: as defined in the definition of “Facility”.

“Revolving Lender”: each Lender that has a Revolving Commitment or that holds Revolving Loans.

“Revolving Loans”: as defined in Section 2.4.

“Revolving Percentage”: as to any Revolving Lender at any time, the percentage which such Lender’s Revolving Commitment then constitutes of the Revolving Commitments or, at any time after the Revolving Commitments shall have expired or terminated, the percentage which the amount of the aggregate principal amount of such Lender’s Revolving Extensions of Credit then outstanding constitutes of the aggregate principal amount of the Revolving Extensions of Credit then outstanding.

“Revolving Termination Date”: the sixth anniversary of the Closing Date.

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

“SEC”: the Securities and Exchange Commission (or successors thereto or an analogous Governmental Authority).

“Secured Parties”: collectively, the Lenders, the Administrative Agent, the Collateral Agent, the Swingline Lender, any Issuing Lender, any other holder from time to time of any of the Obligations and, in each case, their respective successors and permitted assigns.

“Security Documents”: the collective reference to the Guarantee and Collateral Agreement and all other security documents (including any Mortgages) hereafter delivered to the Administrative Agent or the Collateral Agent purporting to grant a Lien on any Property of any Loan Party to secure the Obligations or provide a guarantee of the obligations hereunder.

“Sellers”: General Motors Corporation, a Delaware corporation, and certain of its subsidiaries.

“Senior Incurrence Test”: the incurrence of New Term Loans and/or New Revolving Loans hereunder so long as, on a pro forma basis for such incurrence, the Total Senior Secured Leverage Ratio does not exceed 4.0 to 1.00.

“Senior Interim Facility Indebtedness”: Indebtedness incurred under the Senior Interim Loan Facility.

“Senior Interim Loan Agreement”: the Senior Interim Loan Credit Agreement, dated as of the Closing Date, among the Borrower, the lenders party thereto, Citicorp North America, Inc., as administrative agent, as such agreement may be amended, supplemented, waived or otherwise modified from time to time or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time to the extent not prohibited by this Agreement (whether in whole or in part, whether with the original administrative agent and lenders or other agents and lenders or otherwise, and whether provided under the original Senior Interim Loan Agreement or other credit agreements, indentures or otherwise, unless such agreement or instrument expressly provides that it is not intended to be and is not a Senior Interim Loan Agreement hereunder).

“Senior Interim Loan Documents”: the Loan Documents as defined in the Senior Interim Loan Agreement or any other documentation evidencing any Senior Interim Loan Facility, as the same

may be amended, supplemented, waived, otherwise modified, extended, renewed, refinanced or replaced from time to time to the extent not prohibited by this Agreement.

“Senior Interim Loan Facility”: the collective reference to the Senior Interim Loan Agreement, any Senior Interim Loan Documents, any notes issued pursuant thereto and any guarantee agreement, and other guarantees and other instruments and documents, executed and delivered pursuant to or in connection with any of the foregoing, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time, or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original agent and lenders or other agents and lenders or otherwise, and whether provided under the original Senior Interim Loan Agreement or other credit agreements, indentures (including any Senior Notes Indenture) or otherwise, unless such agreement expressly provides that it is not intended to be and is not a Senior Interim Loan Facility hereunder). Without limiting the generality of the foregoing, the term “Senior Interim Loan Facility” shall include (x) any Senior Notes Indenture and (y) any agreement (i) changing the maturity of any Indebtedness incurred thereunder or contemplated thereby, (ii) adding Subsidiaries of the Borrower as additional borrowers or guarantors thereunder, (iii) increasing the amount of Indebtedness incurred thereunder or available to be borrowed thereunder or (iv) otherwise altering the terms and conditions thereof.

“Senior Interim Loans”: any loan made pursuant to the Senior Interim Loan Agreement.

“Senior Notes”: (a) any Senior Notes of the Borrower to be issued after the Closing Date upon the conversion or exchange of the Senior Interim Loans for such Senior Notes, or to refinance in whole or in part the Senior Interim Loans or any notes issued to refinance or upon the conversion or exchange of any Senior Interim Loans, and (b) any substantially similar Senior Notes (whether registered under the Securities Act or otherwise) that have been exchanged for any such other Senior Notes; in each case as any such Senior Notes may be amended, supplemented, waived or otherwise modified from time to time to the extent not prohibited by this Agreement.

“Senior Notes Indenture”: any indenture governing any Senior Notes, as the same may be amended, supplemented, waived or otherwise modified from time to time to the extent applicable to the extent not prohibited by this Agreement.

“Services Agreement”: the Services Agreement by and among certain of the management companies associated with the Sponsors or their advisors, if applicable, and the Borrower, as in effect on the Closing Date and as modified or amended from time to time with the consent of the Administrative Agent.

“Single Employer Plan”: any Plan that is covered by Title IV of ERISA, but which is not a Multiemployer Plan.

“Solvent”: with respect to any Person, as of any date of determination, (a) the amount of the “present fair saleable value” of the assets of such Person will, as of such date, exceed the amount of all “liabilities of such Person, contingent or otherwise”, as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business and (d) such Person will be able to pay its debts as they mature. For purposes of this definition, (i) “debt” means liability on a “claim”, (ii) “claim” means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated,

fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured and (iii) except as otherwise provided by applicable law, the amount of “contingent liabilities” at any time shall be the amount thereof which, in light of all the facts and circumstances existing at such time, can reasonably be expected to become actual or matured liabilities.

“Special Purpose Vehicle”: any special purpose funding vehicle identified as such in writing by any Lender to the Administrative Agent.

“Specified Equity Contribution”: as defined in Section 7.1(b).

“Specified Hedge Agreement”: any Hedge Agreement (a) entered into by (i) the Borrower or any of its Restricted Subsidiaries and (ii) any Lender or any affiliate thereof at the time such Hedge Agreement was entered into, as counterparty and (b) that has been designated by such Lender and the Borrower, by notice to the Administrative Agent, as a Specified Hedge Agreement. The designation of any Hedge Agreement as a Specified Hedge Agreement shall not create in favor of the Lender or affiliate thereof that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Guarantor under the Guarantee and Collateral Agreement. For the avoidance of doubt, all Hedge Agreements in existence on the Closing Date between the Borrower or any of its Restricted Subsidiaries and any Lender shall constitute Specified Hedge Agreements.

“Specified Representations”: (a) the representations made by the Sellers in the Acquisition Agreement, but only to the extent that the Borrower has the right to terminate its obligations under the Acquisition Agreement in the event that any such representations are not true and (b) the representations and warranties set forth in Sections 4.2(a), 4.4(a), 4.4(c), 4.11, 4.13 and 4.17(a).

“Sponsor”: The Carlyle Group, Onex Partners II L.P. and any Affiliates thereof (but excluding any portfolio companies of the foregoing).

“Subsidiary”: as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a direct or indirect Subsidiary or Subsidiaries of the Borrower.

“Subsidiary Guarantors”: each (a) wholly owned Domestic Subsidiary other than (i) any Immaterial Subsidiary or Unrestricted Subsidiary and (ii) any Domestic Subsidiary substantially all of the assets of which consist of the Capital Stock of one or more “controlled foreign corporations” (as defined in Section 957 of the Code) and (b) any other Subsidiary of the Borrower that is a party to the Guarantee and Collateral Agreement.

“Swingline Commitment”: the obligation of the Swingline Lender to make Swingline Loans pursuant to Section 2.6(a) in an aggregate principal amount at any one time outstanding not to exceed \$20,000,000.

“Swingline Lender”: (a) Citicorp North America, Inc., in its capacity as the lender of Swingline Loans or (b) upon the resignation of Citicorp North America, Inc. as a Swingline Lender, any Revolving Lender from time to time designated by the Borrower as the Swingline Lender (with the consent of such other Revolving Lender (in its sole discretion)).

“Swingline Loans”: as defined in Section 2.6(a).

“Swingline Participation Amount”: as defined in Section 2.7(c).

“Syndication Agent”: as defined in the preamble hereto.

“Term Commitment”: as to any Lender, the obligation of such Lender, if any, to make a Term Loan to the Borrower in a principal amount not to exceed the amount set forth under the heading “Term Commitment” opposite such Lender’s name on Schedule I, or, as the case may be, in the Assignment and Assumption pursuant to which such Lender became a party hereto. The original aggregate amount of the Term Commitments is \$3,100,000,000.

“Term Facility”: as defined in the definition of “Facility”.

“Term Lender”: each Lender that has an Term Commitment or that holds an Term Loan.

“Term Loans”: the term loans made to the Borrower on the Closing Date pursuant to Section 2.1(a).

“Term Maturity Date”: the seventh anniversary of the Closing Date.

“Term Percentage”: as to any Term Lender at any time, the percentage which the sum of such Lender’s Term Commitments then constitutes of the aggregate Term Commitments (or, at any time after the Closing Date, the percentage which the aggregate principal amount of such Lender’s Term Loans then outstanding constitutes of the aggregate principal amount of the Term Loans then outstanding).

“Total Leverage”: at any date, the aggregate principal amount of all Funded Debt of the Borrower and its Restricted Subsidiaries at such date, minus cash, Cash Equivalents and Foreign Cash Equivalents held by the Borrower and its Restricted Subsidiaries on such date, in each case determined on a consolidated basis in accordance with GAAP.

“Total Leverage Ratio”: as at the last day of any period of four consecutive fiscal quarters of the Borrower, the ratio of (a) Total Leverage on such day to (b) Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for such period.

“Total Senior Secured Leverage”: at any date shall mean Funded Debt outstanding under the Loan Documents on such date, minus cash, Cash Equivalents held by the Borrower and its Restricted Subsidiaries on such date, in each case determined on a consolidated basis in accordance with GAAP.

“Total Senior Secured Leverage Ratio”: as at the last day of any period of four consecutive fiscal quarters of the Borrower, the ratio of (a) Total Senior Secured Leverage on such day to (b) Consolidated EBITDA of the Borrower and its Restricted Subsidiaries for such period.

“Tranche”: as defined in Section 2.25.

“Transaction Documents”: the Acquisition Documents, the Senior Interim Loan Documents and the Loan Documents.

“Transactions”: the transactions to occur pursuant to the Transaction Documents.

“Transferee”: any Assignee or Participant.

“Type”: as to any Loan, its nature as a Base Rate Loan or LIBO Rate Loan.

“United States”: the United States of America.

“Unrestricted Subsidiary”: (i) any Subsidiary of the Borrower designated as such and listed on Schedule 4.14 on the Closing Date and (ii) any Subsidiary of the Borrower that is designated by a resolution of the board of directors of the Borrower as an Unrestricted Subsidiary, but only to the extent that, in the case of each of clauses (i) and (ii), such Subsidiary: (a) has no Indebtedness other than Non-Recourse Debt; (b) is not party to any agreement, contract, arrangement or understanding with the Borrower or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of Holdings or the Borrower; (c) is a Person with respect to which neither Holdings, the Borrower nor any of the Restricted Subsidiaries has any direct or indirect obligation (x) to subscribe for additional Capital Stock or warrants, options or other rights to acquire Capital Stock or (y) to maintain or preserve such Person’s financial condition or to cause such Person to achieve any specified levels of operating results; and (d) does not guarantee or otherwise provide credit support after the time of such designation for any Indebtedness of the Borrower or any of its Restricted Subsidiaries, in the case of clauses (a), (b) and (c), except to the extent not otherwise prohibited by Section 7. If, at any time, any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes hereof. Subject to the foregoing, the Borrower may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary or any Restricted Subsidiary to be an Unrestricted Subsidiary; provided that (i) such designation shall only be permitted if no Default or Event of Default would be in existence following such designation, (ii) any designation of an Unrestricted Subsidiary as a Restricted Subsidiary shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of any outstanding Indebtedness of such Unrestricted Subsidiary and (iii) any designation of a Restricted Subsidiary as an Unrestricted Subsidiary shall be deemed to be an Investment in an Unrestricted Subsidiary and shall reduce amounts available for Investments in Unrestricted Subsidiaries permitted by Section 7.7 in an amount equal to the fair market value of the Subsidiary so designated; provided that the Borrower may subsequently redesignate any such Unrestricted Subsidiary as a Restricted Subsidiary so long as the Borrower does not subsequently re-designate such Restricted Subsidiary as an Unrestricted Subsidiary for a period of the succeeding four fiscal quarters.

1.2 Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to the Borrower and its Subsidiaries not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP, (ii) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”, and (iii) references to agreements or other Contractual Obligations shall, unless otherwise specified, be deemed to

refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time.

(c) The words “hereof”, “herein” and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Annex, Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The term “license” shall include sub-license.

(e) With respect to each Subsidiary that is not a wholly-owned Subsidiary, for purposes of calculating Excess Cash Flow, Consolidated EBITDA, any financial covenant, any basket or threshold amount, any liability and/or any Capital Expenditures, the amount attributable to such Subsidiary that shall be counted for such purposes shall equal the product of (x) the Borrower’s direct and/or indirect percentage ownership of such Subsidiary and (y) the aggregate amount of the applicable item of such Subsidiary, except to the extent the application of GAAP already takes into account the non-wholly owned subsidiary relationship.

The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

## SECTION 2. AMOUNT AND TERMS OF COMMITMENTS

2.1 Term Commitments. Subject to the terms and conditions hereof, each Term Lender severally agrees to make a term loan (a “Term Loan”) in Dollars to the Borrower on the Closing Date in an amount not to exceed the amount of the Term Commitment of such Lender. The Term Loans may from time to time be LIBO Rate Loans or Base Rate Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.2 and 2.13.

2.2 Procedure for Term Loan Borrowing. The Borrower shall give the Administrative Agent irrevocable notice (which notice must be received by the Administrative Agent prior to 1:00 P.M., New York City time, on the day of the anticipated Closing Date) requesting that the Term Lenders make the Term Loans on the Closing Date and specifying the amount to be borrowed. The Term Loans made on the Closing Date shall initially be Base Rate Loans unless the Term Lenders and the Administrative Agent otherwise agree. Upon receipt of such notice the Administrative Agent shall promptly notify each Term Lender thereof. Not later than 3:00 P.M., New York City time, on the Closing Date each Term Lender shall make available to the Administrative Agent at the Funding Office an amount in immediately available funds equal to the Term Loan or Term Loans to be made by such Lender. The Administrative Agent shall credit the account designated in writing by the Borrower to the Administrative Agent with the aggregate of the amounts made available to the Administrative Agent by the Term Lenders in immediately available funds.

2.3 Repayment of Term Loans. The Term Loan of each Term Lender shall be payable in equal consecutive quarterly installments on the last Business Day of each of December, March, June and September, commencing on the last Business Day of December, 2007, in an amount equal to one quarter of one percent (0.25%) of the Term Loans funded on the Closing Date (as adjusted to reflect any prepayments thereof), with the remaining balance thereof payable on the Term Maturity Date or the applicable maturity date for the applicable tranche of New Term Loans.

2.4 Revolving Commitments. (a) Subject to the terms and conditions hereof, each Revolving Lender severally agrees to make revolving credit loans (“Revolving Loans”) in Dollars to the

Borrower from time to time during the Revolving Commitment Period in an aggregate principal amount at any one time outstanding which when added to such Lender's Revolving Percentage of the sum of (x) the L/C Obligations then outstanding and (y) the aggregate principal amount of the Swingline Loans then outstanding, does not exceed the amount of such Lender's Revolving Commitment. During the Revolving Commitment Period the Borrower may use the Revolving Commitments by borrowing, prepaying the Revolving Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The Revolving Loans may from time to time be LIBO Rate Loans or Base Rate Loans as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.5 and 2.13.

(b) The Borrower shall repay all outstanding Revolving Loans made to it on the Revolving Termination Date.

**2.5 Procedure for Revolving Loan Borrowing.** The Borrower may borrow under the Revolving Commitments during the Revolving Commitment Period on any Business Day; provided that the Borrower shall give the Administrative Agent irrevocable notice (which notice must be received by the Administrative Agent (i) in the case of LIBO Rate Loans, prior to 1:00 P.M., New York City time, two Business Days prior to the requested Borrowing Date or (ii) in the case of Base Rate Loans, prior to 12:00 Noon, New York City time, on the proposed Borrowing Date, specifying (x) the amount and Type of Loans to be borrowed, (y) the requested Borrowing Date, and (z) in the case of LIBO Rate Loans, the respective lengths of the initial Interest Period therefor). Any Revolving Loans made on the Closing Date shall initially be Base Rate Loans, and the aggregate principal amount of all Revolving Loans made on the Closing Date shall not exceed \$15,000,000 (which amount, for the avoidance of doubt, shall not include the face amount of any outstanding Letters of Credit). Each borrowing by the Borrower under the Revolving Commitments shall be in an amount equal to (x) in the case of Base Rate Loans, \$500,000 or a whole multiple of \$50,000 in excess thereof (or, if the then aggregate Available Revolving Commitments are less than \$500,000, such lesser amount) and (y) in the case of LIBO Rate Loans, \$1,000,000 or a whole multiple of \$250,000 in excess thereof; provided that the Swingline Lender may request, on behalf of the Borrower, borrowings under the Revolving Commitments that are Base Rate Loans in other amounts pursuant to Section 2.7(a). Upon receipt of any such notice from the Borrower, the Administrative Agent shall promptly notify each Revolving Lender thereof. Each Revolving Lender will make the amount of its pro rata share of each borrowing available to the Administrative Agent for the account of the Borrower at the Funding Office prior to 2:00 P.M., New York City time, on the Borrowing Date requested by the Borrower in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent crediting the account of the Borrower on the books of the Funding Office with the aggregate of the amounts made available to the Administrative Agent by the Revolving Lenders and in like funds as received by the Administrative Agent.

If no election as to the Type of a Revolving Loan is specified, then the requested Loan shall be a Base Rate Loan. If no Interest Period is specified with respect to any requested LIBO Rate Loan, the requested Loan shall be made instead as a LIBO Rate Loan with an Interest Period of one month.

**2.6 Swingline Commitment.** (a) Subject to the terms and conditions hereof, the Swingline Lender agrees to make a portion of the credit otherwise available to the Borrower under the Revolving Commitments from time to time during the Revolving Commitment Period by making swing line loans ("Swingline Loans") in Dollars to the Borrower; provided that (i) the aggregate principal amount of Swingline Loans outstanding at any time shall not exceed the Swingline Commitment then in effect (provided that the Swingline Loans outstanding at any time, when aggregated with the Swingline Lender's other outstanding Revolving Loans, may exceed the Swingline Commitment then in effect) and (ii) the Borrower shall not request, and the Swingline Lender shall not make, any Swingline Loan if, after

giving effect to the making of such Swingline Loan, the aggregate amount of the Available Revolving Commitments would be less than zero. During the Revolving Commitment Period, the Borrower may use the Swingline Commitment by borrowing, repaying and reborrowing, all in accordance with the terms and conditions hereof. Swingline Loans shall be Base Rate Loans only.

(b) The Borrower shall repay to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the Revolving Termination Date.

**2.7 Procedure for Swingline Borrowing; Refunding of Swingline Loans.** (a) Whenever the Borrower desires that the Swingline Lender make Swingline Loans it shall give the Swingline Lender and the Administrative Agent irrevocable written notice (which notice must be received by the Swingline Lender and the Administrative Agent not later than 2:00 P.M., New York City time, on the proposed Borrowing Date), specifying (i) the amount to be borrowed and (ii) the requested Borrowing Date (which shall be a Business Day during the Revolving Commitment Period). Each borrowing under the Swingline Commitment shall be in an amount equal to \$100,000 or a whole multiple of \$50,000 in excess thereof. Not later than 3:00 P.M., New York City time, on the Borrowing Date specified in a notice in respect of Swingline Loans, the Swingline Lender shall make available to the Administrative Agent at the Funding Office an amount in immediately available funds equal to the amount of the Swingline Loan to be made by the Swingline Lender. The Administrative Agent shall make the proceeds of such Swingline Loan available to the Borrower on such Borrowing Date by depositing such proceeds in the account of the Borrower with the Administrative Agent or as otherwise directed by the Borrower on such Borrowing Date in immediately available funds.

(b) The Swingline Lender, at any time and from time to time in its sole and absolute discretion may, on behalf of the Borrower (which hereby irrevocably directs the Swingline Lender to act on its behalf), on one Business Day's notice given by the Swingline Lender no later than 12:00 Noon, New York City time, request each Revolving Lender to make, and each Revolving Lender hereby agrees to make, a Revolving Loan, in an amount equal to such Revolving Lender's Revolving Percentage of the aggregate amount of the Swingline Loans (the "Refunded Swingline Loans") outstanding on the date of such notice, to repay the Swingline Lender. Each Revolving Lender shall make the amount of such Revolving Loan available to the Administrative Agent at the Funding Office in immediately available funds, not later than 10:00 A.M., New York City time, one Business Day after the date of such notice. The proceeds of such Revolving Loans shall be immediately made available by the Administrative Agent to the Swingline Lender for application by the Swingline Lender to the repayment of the Refunded Swingline Loans.

(c) If prior to the time a Revolving Loan would have otherwise been made pursuant to Section 2.7(b), one of the events described in Section 8(f) shall have occurred and be continuing with respect to the Borrower or if for any other reason, as determined by the Swingline Lender in its sole discretion, Revolving Loans may not be made as contemplated by Section 2.7(b), each Revolving Lender shall, on the date such Revolving Loan was to have been made pursuant to the notice referred to in Section 2.7(b), purchase for cash an undivided participating interest in the then outstanding Swingline Loans by paying to the Swingline Lender an amount (the "Swingline Participation Amount") equal to (A) such Revolving Lender's Revolving Percentage times (B) the sum of the aggregate principal amount of Swingline Loans then outstanding that were to have been repaid with such Revolving Loans.

(d) Whenever, at any time after the Swingline Lender has received from any Revolving Lender such Lender's Swingline Participation Amount with respect to any Swingline Loans, the Swingline Lender receives any payment on account of such Swingline Loans, the Swingline Lender will distribute to such Lender its Swingline Participation Amount with respect thereto (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's

participating interest was outstanding and funded and, in the case of principal and interest payments, to reflect such Lender's pro rata portion of such payment if such payment is not sufficient to pay the principal of and interest on all such Swingline Loans then due); provided, however, that in the event that such payment received by the Swingline Lender is required to be returned, such Lender will return to the Swingline Lender any portion thereof previously distributed to it by the Swingline Lender.

(e) Each Revolving Lender's obligation to make the Loans referred to in Section 2.7(b) and to purchase participating interests pursuant to Section 2.7(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such Revolving Lender or the Borrower may have against the Swingline Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Section 5, (iii) any adverse change in the condition (financial or otherwise) of the Borrower or any other Loan Party, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Loan Party or any other Lender or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

2.8 Repayment of Loans. (a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of the appropriate Revolving Lender or Term Lender, as the case may be, (i) the then unpaid principal amount of each Revolving Loan of such Revolving Lender made to the Borrower outstanding on the Revolving Termination Date (or on such earlier date on which the Loans become due and payable pursuant to Section 8) and (ii) the principal amount of each outstanding Term Loan of such Term Lender made to the Borrower in installments according to the amortization schedule set forth in Section 2.3 (or on such earlier date on which the Loans become due and payable pursuant to Section 8). The Borrower hereby further agrees to pay interest on the unpaid principal amount of the Loans made to the Borrower from time to time outstanding from the date hereof until payment in full thereof at the rates per annum, and on the dates, set forth in Section 2.15.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing indebtedness of the Borrower to such Lender resulting from each Loan of such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement.

(c) The Administrative Agent, on behalf of the Borrower, shall maintain the Register pursuant to Section 10.6(b)(iv), and a subaccount therein for each Lender, in which shall be recorded (i) the amount of each Loan made hereunder and any Note evidencing such Loan, the Type of such Loan and each Interest Period applicable thereto, (ii) the amount of any principal, interest and fees, as applicable, due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(d) The entries made in the Register and the accounts of each Lender maintained pursuant to Section 2.8(c) shall, to the extent permitted by applicable law, be presumptively correct absent manifest error of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that the failure of the Administrative Agent or any Lender to maintain the Register or any such account, or any error therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to the Borrower by such Lender in accordance with the terms of this Agreement.

2.9 Commitment Fee, etc. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a commitment fee for the period from and including the

Closing Date to the last day of the Revolving Commitment Period, computed at the Applicable Commitment Fee Rate on the average daily amount of the Available Revolving Commitment of such Lender during the period for which payment is made, payable quarterly in arrears on each Fee Payment Date; provided that for purposes of calculating any fees owing in accordance with this Section 2.9(a), the Swingline Lender shall not be entitled to receive any commitment fee in respect of any outstanding Swingline Loans.

(b) The Borrower agrees to pay to the Administrative Agent the fees in the amounts and on the dates as set forth in any fee agreements, including the Fee Letter, with the Administrative Agent.

2.10 Termination or Reduction of Revolving Commitments. The Borrower shall have the right, upon not less than two Business Days' notice to the Administrative Agent, to terminate the Revolving Commitments or, from time to time, to reduce the amount of the Revolving Commitments; provided that no such termination or reduction of such Revolving Commitments shall be permitted if, after giving effect thereto and to any prepayments of the Revolving Loans made on the effective date thereof, the total Revolving Extensions of Credit would exceed the total Revolving Commitments. Any such partial reduction shall be in an amount equal to \$1,000,000, or a whole multiple thereof, and shall reduce permanently the Revolving Commitments then in effect.

2.11 Optional Prepayments. The Borrower may at any time and from time to time prepay the Revolving Loans, the Swingline Loans or the Term Loans, in whole or in part, without premium or penalty, upon irrevocable notice delivered to the Administrative Agent no later than 1:00 P.M. New York City time, two Business Days prior thereto, in the case of LIBO Rate Loans, and no later than 1:00 P.M., New York City time, one Business Day prior thereto, in the case of Base Rate Loans, which notice shall specify (i) the date and amount of prepayment, (ii) whether the prepayment is of Revolving Loans or Term Loans and (iii) whether the prepayment is of LIBO Rate Loans or Base Rate Loans; provided that if a LIBO Rate Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.21. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein (provided that such notice may be conditioned on receiving the proceeds of any refinancing), together with (except in the case of Revolving Loans that are Base Rate Loans and Swingline Loans) accrued interest to such date on the amount prepaid. Partial prepayments of Term Loans and Revolving Loans shall be in an aggregate principal amount of (i) \$1,000,000 or a whole multiple of \$100,000 in excess thereof (in the case of prepayments of Base Rate Loans) or (ii) \$1,000,000 or a whole multiple of \$500,000 in excess thereof (in the case of prepayments of LIBO Rate Loans), and in each case shall be subject to the provisions of Section 2.18. Partial prepayments of Swingline Loans shall be in an aggregate principal amount of \$50,000 or a whole multiple of \$50,000 in excess thereof.

2.12 Mandatory Prepayments. (a) Unless the Required Prepayment Lenders shall otherwise agree, if any Indebtedness (excluding any Indebtedness incurred in accordance with Section 7.2) shall be incurred by the Borrower or any Domestic Subsidiary that is a Restricted Subsidiary, an amount equal to 100% of the Net Cash Proceeds thereof shall be applied on the date of receipt of such Net Cash Proceeds toward the prepayment of the Term Loans as set forth in Section 2.12(d).

(b) Unless the Required Prepayment Lenders shall otherwise agree, if on any date the Borrower or any Domestic Subsidiary that is a Restricted Subsidiary shall for its own account receive Net Cash Proceeds from any Asset Sale or Recovery Event then, unless a Reinvestment Notice shall be delivered in respect thereof, such Net Cash Proceeds shall be applied on such date toward the prepayment of the Term Loans as set forth in Section 2.12(d); provided that notwithstanding the foregoing, (i) the

Borrower shall not be required to prepay the Term Loans pursuant to this paragraph (b) in excess of the amount such that the Total Senior Secured Leverage Ratio immediately after such prepayment would be equal to or less than the Total Senior Secured Leverage Ratio immediately prior to effecting such Asset Sale (the amount of Net Cash Proceeds not required to prepay the Term Loans as a result of this provision is herein referred to as "Excess Sale Proceeds"), (ii) during any fiscal year, the Borrower shall not be permitted to deliver a Reinvestment Notice in respect of such Net Cash Proceeds to the extent that after giving effect to such Asset Sale or Recovery Event, such Net Cash Proceeds, together with all other Net Cash Proceeds of all such Asset Sales and Recovery Events received in such fiscal year, would exceed 5% of Consolidated Total Assets, (iii) on each Reinvestment Prepayment Date, the Term Loans shall be prepaid as set forth in Section 2.12(d) by an amount equal to the Reinvestment Prepayment Amount with respect to the relevant Reinvestment Event and (iv) on the date (the "Trigger Date") that is one year after any such Reinvestment Prepayment Date, the Term Loans shall be prepaid as set forth in Section 2.12(d) by an amount equal to the portion of any Committed Reinvestment Amount with respect to the relevant Reinvestment Event not actually expended by such Trigger Date.

(c) Unless the Required Prepayment Lenders shall otherwise agree, if, for any fiscal year of the Borrower commencing with the fiscal year ending December 31, 2008, there shall be Excess Cash Flow, the Borrower shall, on the relevant Excess Cash Flow Application Date, apply an amount equal to (i) the Excess Cash Flow Percentage of such Excess Cash Flow minus (ii) the aggregate amount of all prepayments of Revolving Loans and Swingline Loans during such fiscal year to the extent accompanied by permanent optional reductions of the Revolving Commitments and all optional prepayments of the Term Loans during such fiscal year, in each case other than to the extent any such prepayment is funded with the proceeds of new long-term Indebtedness, toward the prepayment of the Term Loans as set forth in Section 2.12(d). Each such prepayment shall be made on a date (an "Excess Cash Flow Application Date") no later than ten days after the date on which the financial statements referred to in Section 6.1(a), for the fiscal year with respect to which such prepayment is made, are required to be delivered to the Administrative Agent. Notwithstanding the foregoing, all mandatory prepayments pursuant to this Section 2.12(c) shall be limited to the extent that the Borrower reasonably determines that such mandatory prepayments would result in adverse tax consequences related to the repatriation of funds in connection therewith by Foreign Subsidiaries of the Borrower; provided that any amount so excluded from any such mandatory prepayment pursuant to the operation of this sentence shall not increase the Available Amount pursuant to clause (a)(i) of the definition thereof.

(d) Amounts to be applied in connection with prepayments pursuant to Section 2.12 shall be applied to the prepayment of the Term Loans in accordance with Section 2.18(b) until paid in full. The application of any prepayment pursuant to Section 2.12 shall be made, first, to Base Rate Loans and, second, to LIBO Rate Loans. Each prepayment of the Term Loans under Section 2.12 shall be accompanied by accrued interest to the date of such prepayment on the amount prepaid.

(e) Notwithstanding anything to the contrary in Section 2.12(d) or 2.18, with respect to the amount of any mandatory prepayment described in Section 2.12(a) through (c) above (which, for the avoidance of doubt, includes prepayments of any New Term Loans) (such amounts, the "Prepayment Amount"), at any time when Term Loans remain outstanding, the Borrower will, in lieu of applying such amount to the prepayment of Term Loans as provided in paragraph (d) above, on the date specified in Section 2.12 for such prepayment, give the Administrative Agent telephonic notice (promptly confirmed in writing) requesting that the Administrative Agent prepare and provide to each Term Lender (which, for the avoidance of doubt, includes any Lender holding a New Term Loan) a notice (each, a "Prepayment Option Notice") as described below. As promptly as practicable after receiving such notice from the Borrower, the Administrative Agent will send to each Term Lender a Prepayment Option Notice, which shall be in the form of Exhibit J (or such other form approved by the Administrative Agent), and shall include an offer by the Borrower to prepay on the date (each a "Mandatory Prepayment Date") that is ten

Business Days after the date of the Prepayment Option Notice, the relevant Term Loans of such Lender by an amount equal to the portion of the Prepayment Amount indicated in such Lender's Prepayment Option Notice as being applicable to such Lender's Term Loans. On the Mandatory Prepayment Date, the Borrower shall pay to the relevant Term Lenders the aggregate amount necessary to prepay that portion of the outstanding relevant Term Loans in respect of which such Lenders have accepted (it being understood that any Lender's failure to object prior to the relevant Mandatory Prepayment Date shall be deemed as an acceptance by such Lender of the offer to prepay contained in such Prepayment Option Notice and the amount to be prepaid in respect of Term Loans held by such Lender) prepayment as described above; provided that, following such offer and application, any amount remaining unapplied shall be returned to the Borrower.

2.13 Conversion and Continuation Options. (a) The Borrower may elect from time to time to convert LIBO Rate Loans made to the Borrower to Base Rate Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 1:00 P.M., New York City time, on the second Business Day preceding the proposed conversion date; provided that if any LIBO Rate Loan is so converted on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.21. The Borrower may elect from time to time to convert Base Rate Loans made to the Borrower to LIBO Rate Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 1:00 P.M., New York City time, on the second Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor); provided that no Base Rate Loan under a particular Facility may be converted into a LIBO Rate Loan when any Event of Default has occurred and is continuing and the Administrative Agent or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such conversions. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any LIBO Rate Loan may be continued as such by the Borrower giving irrevocable notice to the Administrative Agent, in accordance with the applicable provisions of the term "Interest Period" set forth in Section 1.1 and no later than 1:00 P.M., New York City time, on the second Business Day preceding the proposed continuation date, of the length of the next Interest Period to be applicable to such Loans; provided that if any LIBO Rate Loan is so continued on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.21 and; provided, further, that no LIBO Rate Loan under a particular Facility may be continued as such when any Event of Default has occurred and is continuing and the Administrative Agent has or the Majority Facility Lenders in respect of such Facility have determined in its or their sole discretion not to permit such continuations and; provided, further, that if the Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to Base Rate Loans on the last day of such then expiring Interest Period. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

2.14 Minimum Amounts and Maximum Number of LIBO Rate Tranches. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions, continuations and optional prepayments of LIBO Rate Loans and all selections of Interest Periods shall be in such amounts and be made pursuant to such elections so that (a) after giving effect thereto, the aggregate principal amount of the LIBO Rate Loans comprising each LIBO Rate Tranche shall be equal to a minimum of \$1,000,000 or a whole multiple of \$500,000 in excess thereof and (b) no more than fifteen LIBO Rate Tranches shall be outstanding at any one time.

2.15 Interest Rates and Payment Dates. (a) Each LIBO Rate Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the LIBO Rate determined for such day plus the Applicable Margin.

(b) Each Base Rate Loan shall bear interest at a rate per annum equal to the Base Rate plus the Applicable Margin.

(c) (i) If all or a portion of the principal amount of any Loan shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall automatically bear interest at a rate per annum equal to in the case of the Loans, the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section plus 2% or (ii) if all or a portion of any interest payable on any Loan or Reimbursement Obligation, any principal amount of Reimbursement Obligation, any commitment fee or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall, at the request of the Administrative Agent or Required Lenders, bear interest at a rate per annum equal to the rate then applicable to Base Rate Loans under the relevant Facility plus 2% (or, in the case of Reimbursement Obligations, the rate applicable to Base Rate Loans under the Revolving Facility plus 2% and in the case of any such other amounts that do not relate to a particular Facility, the rate then applicable to Base Rate Loans under the Revolving Facility plus 2%), in each case, with respect to clauses (i) and (ii) above, from the date of such non-payment until such amount is paid in full (as well after as before judgment).

(d) Interest shall be payable by the Borrower in arrears on each Interest Payment Date; provided that interest accruing pursuant to paragraph (c) of this Section shall be payable from time to time on demand.

2.16 Computation of Interest and Fees. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to Base Rate Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a LIBO Rate. Any change in the interest rate on a Loan resulting from a change in the Base Rate or the LIBO Rate Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be presumptively correct in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.15(a) and Section 2.15(b).

2.17 Inability to Determine Interest Rate. If prior to the first day of any Interest Period for any LIBO Rate Loan:

(a) the Administrative Agent shall have determined (which determination shall be presumptively correct absent manifest error) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the LIBO Rate for such Interest Period, or

(b) the Administrative Agent shall have received notice from the Majority Facility Lenders in respect of the relevant Facility that by reason of any changes arising after the date of this Agreement the LIBO Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lenders (as certified by such Lenders) of making or maintaining their affected Loans during such Interest Period,

the Administrative Agent shall give telecopy notice thereof to the Borrower and the relevant Lenders as soon as practicable thereafter. If such notice is given (x) any LIBO Rate Loans under the relevant Facility requested to be made on the first day of such Interest Period shall be made as Base Rate Loans, (y) any Loans under the relevant Facility that were to have been converted on the first day of such Interest Period to LIBO Rate Loans shall be continued as Base Rate Loans and (z) any outstanding LIBO Rate Loans under the relevant Facility shall be converted, on the last day of the then-current Interest Period with respect thereto, to Base Rate Loans. Until such notice has been withdrawn by the Administrative Agent (which action the Administrative Agent will take promptly after the conditions giving rise to such notice no longer exist), no further LIBO Rate Loans under the relevant Facility shall be made or continued as such, nor shall the Borrower have the right to convert Loans under the relevant Facility to LIBO Rate Loans.

2.18 Pro Rata Treatment and Payments. (a) Each borrowing by the Borrower from the Lenders hereunder, each payment by the Borrower on account of any commitment fee and any reduction of the Revolving Commitments of the Lenders shall be made pro rata according to the respective Term Percentages or Revolving Percentages, as the case may be, of the relevant Lenders. Each payment (including prepayments, except as set forth in Section 2.12(e)) in respect of principal or interest in respect of the Term Loans and each payment in respect of fees payable hereunder shall be applied to the amounts of such obligations owing to the Term Lenders, pro rata according to the respective amounts then due and owing to such Lenders.

(b) Each optional prepayment of the Term Loans shall be applied to the remaining installments thereof as specified by the Borrower. Each mandatory prepayment on account of principal of and interest on the Term Loans pursuant to Section 2.12 shall be applied as directed by the Borrower. Amounts repaid or prepaid on account of the Term Loans may not be reborrowed.

(c) Each payment (including prepayments) to be made by the Borrower on account of principal of and interest on the Revolving Loans shall be made pro rata according to the respective outstanding principal amounts of the Revolving Loans then held by the Revolving Lenders. Each payment in respect of Reimbursement Obligations in respect of any Letter of Credit shall be made to the Issuing Lender that issued such Letter of Credit.

(d) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff, deduction or counterclaim and shall be made prior to 2:00 P.M., New York City time, on the due date thereof to the Administrative Agent, for the account of the relevant Lenders, at the Funding Office, in immediately available funds. The Administrative Agent shall distribute such payments to the relevant Lenders promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the LIBO Rate Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a LIBO Rate Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(e) Unless the Administrative Agent shall have been notified in writing by any Lender prior to a borrowing that such Lender will not make the amount that would constitute its share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Lender is making such amount available to the Administrative Agent, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such amount is not made available to the Administrative Agent by the required time on the Borrowing Date therefor, such Lender shall pay to the Administrative Agent on demand, such amount with interest thereon, at a rate equal to the greater of (i) the Federal Funds Effective Rate and (ii) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, for the period until such Lender makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this paragraph shall be presumptively correct in the absence of manifest error. If such Lender's share of such borrowing is not made available to the Administrative Agent by such Lender within two Business Days after such Borrowing Date, the Administrative Agent shall give notice of such fact to the Borrower and the Administrative Agent shall also be entitled to recover such amount with interest thereon at the rate per annum applicable to Base Rate Loans under the relevant Facility, on demand, from the Borrower. Nothing herein shall be deemed to limit the rights of the Administrative Agent or the Borrower against any defaulting Lender.

(f) Unless the Administrative Agent shall have been notified in writing by the Borrower prior to the date of any payment due to be made by the Borrower hereunder that the Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that the Borrower is making such payment, and the Administrative Agent may, but shall not be required to, in reliance upon such assumption, make available to the relevant Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrower within three Business Days after such due date, the Administrative Agent shall be entitled to recover, on demand, from each relevant Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrower.

(g) Each obligation of the Loan Parties under the Loan Documents related to any Loans or Letter of Credit shall be paid in Dollars. All commitment fees payable pursuant to Section 2.9 shall be calculated and payable in Dollars.

2.19 Requirements of Law. (a) If the adoption of or any change in any Requirement of Law or in the interpretation or application thereof or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority first made, in each case, subsequent to the date hereof:

(i) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the LIBO Rate hereunder; or

(ii) shall impose on such Lender any other condition not otherwise contemplated hereunder;

and the result of any of the foregoing is to increase the cost to such Lender, by an amount which such Lender reasonably deems to be material, of making, converting into, continuing or maintaining LIBO

Rate Loans or issuing or participating in Letters of Credit (in each case hereunder), or to reduce any amount receivable hereunder in respect thereof, then, in any such case, the Borrower shall promptly pay such Lender, in Dollars, within ten Business Days after the Borrower's receipt of a reasonably detailed invoice therefor (showing with reasonable detail the calculations thereof), any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this Section, it shall promptly notify the Borrower (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled.

(b) If any Lender shall have determined that the adoption of or any change in any Requirement of Law regarding capital adequacy or in the interpretation or application thereof or compliance by such Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority first made, in each case, subsequent to the date hereof shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder or under or in respect of any Letter of Credit to a level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, after submission by such Lender to the Borrower (with a copy to the Administrative Agent) of a reasonably detailed written request therefor (consistent with the detail provided by such Lender to similarly situated borrowers), the Borrower shall pay to such Lender, in Dollars, such additional amount or amounts as will compensate such Lender or such corporation on an after-tax basis for such reduction.

(c) A certificate as to any additional amounts payable pursuant to this Section submitted by any Lender to the Borrower (with a copy to the Administrative Agent) shall be presumptively correct in the absence of manifest error. Notwithstanding anything to the contrary in this Section, the Borrower shall not be required to compensate a Lender pursuant to this Section for any amounts incurred more than 180 days prior to the date that such Lender notifies the Borrower of such Lender's intention to claim compensation therefor; provided that if the circumstances giving rise to such claim have a retroactive effect, then such 180-day period shall be extended to include the period of such retroactive effect. The obligations of the Borrower pursuant to this Section shall survive the termination of this Agreement and the payment of the Obligations.

2.20 Taxes. (a) Except as otherwise provided in this Agreement, all payments made by the Borrower under this Agreement and any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income taxes, levies, imposts, duties, charges, fees, deductions, withholdings or Other Taxes, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding (i) net income taxes, net profits and franchise taxes (imposed in lieu of net income taxes) imposed on the Administrative Agent or any Lender as a result of a present or former connection between the Administrative Agent or such Lender and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Administrative Agent or such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document) and (ii) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which the Borrower is located. If any such non-excluded taxes, levies, imposts, duties, charges, fees, deductions or withholdings ("Non-Excluded Taxes") or Other Taxes are required to be withheld from any amounts payable by the Borrower to the Administrative Agent or any Lender hereunder, the amounts so payable to the Administrative Agent or such Lender shall be increased to the extent necessary to yield to the Administrative Agent or such Lender (after deduction or withholding of all Non-Excluded Taxes and

Other Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement; provided, however, that the Borrower shall not be required to increase any such amounts payable to any Lender with respect to any Non-Excluded Taxes (i) that are attributable to such Lender's failure to comply with the requirements of paragraph (e) or (f), as applicable, of this Section or (ii) that are United States withholding taxes imposed on amounts payable under any Loan Document to such Lender at the time such Lender becomes a Lender, except to the extent that such Lender's assignor (if any) was entitled, at the time of assignment, to receive additional amounts from the Borrower with respect to such Non-Excluded Taxes pursuant to this paragraph.

(b) In addition, the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrower shall indemnify each Lender and the Administrative Agent for the full amount of Non-Excluded Taxes and Other Taxes on or with respect to any payment by or on account of any Obligation of Borrower hereunder (including any Non-Excluded Taxes and Other Taxes imposed by any jurisdiction on amounts payable under this Section 2.20) paid by such Lender, such Issuer or the Administrative Agent (as the case may be) and any liability (including for penalties, interest and reasonable expenses) arising therefrom or with respect thereto, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally asserted. This indemnification shall be made within 30 days from the date such Lender or the Administrative Agent (as the case may be) makes written demand therefor which shows in reasonable detail the basis and amount of such Non-Excluded Taxes or Other Taxes.

(d) Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter the Borrower shall send to the Administrative Agent for the account of the Administrative Agent or Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof if such receipt is obtainable, or, if not, such other evidence of payment as may reasonably be required by the Administrative Agent or such Lender.

(e) Each Lender that is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) (a "Non-US Lender") shall deliver to the Borrower and the Administrative Agent (or, in the case of a Participant, to the Lender from which the related participation shall have been purchased) (i) two accurate and complete copies of IRS Form W-8ECI or W-8BEN, or, (ii) in the case of a Non-US Lender claiming exemption from United States federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", a statement substantially in the form of Exhibit F and two accurate and complete copies of IRS Form W-8BEN, or any subsequent versions or successors to such forms, in each case properly completed and duly executed by such Non-US Lender claiming complete exemption from, or a reduced rate of, United States federal withholding tax on all payments by the Borrower or any Loan Party under this Agreement and the other Loan Documents. Such forms shall be delivered by each Non-US Lender on or before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation). In addition, each Non-US Lender shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Non-US Lender. Notwithstanding any other provision of this paragraph, a Non-US Lender shall not be required to deliver any form pursuant to this paragraph that such Non-US Lender is not legally able to deliver.

(f) Each Lender that is a United States person (as such term is defined in Section 7701(a)(30) of the Code) (a "US Lender") shall deliver to the Borrower and the Administrative Agent two accurate and complete copies of IRS Form W-9, or any subsequent versions or successors to such form. Such forms shall be delivered by each US Lender on or before the date it becomes a party to this

Agreement. In addition, each US Lender shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such US Lender.

(g) If the Administrative Agent or any Lender determines, in its sole good faith discretion, that it has received a refund of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.20, it shall promptly pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 2.20 with respect to the Non-Excluded Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person or to file for any refund. The agreements in this Section shall survive the termination of this Agreement and the payment of the Obligations.

2.21 Indemnity. The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense (other than lost profits, including the loss of Applicable Margin) that such Lender may actually sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of LIBO Rate Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment of or conversion from LIBO Rate Loans after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment, conversion or continuation of LIBO Rate Loans on a day that is not the last day of an Interest Period with respect thereto. A reasonably detailed certificate as to (showing in reasonable detail the calculation of) any amounts payable pursuant to this Section submitted to the Borrower by any Lender shall be presumptively correct in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Obligations.

2.22 Illegality. Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof, in each case, first made after the date hereof, shall make it unlawful for any Lender to make or maintain LIBO Rate Loans as contemplated by this Agreement, such Lender shall promptly give notice thereof (a "Rate Determination Notice") to the Administrative Agent and the Borrower, and (a) the commitment of such Lender hereunder to make LIBO Rate Loans, continue LIBO Rate Loans as such and convert Base Rate Loans to LIBO Rate Loans shall be suspended during the period of such illegality and (b) such Lender's Loans then outstanding as LIBO Rate Loans shall be converted automatically to Base Rate Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a LIBO Rate Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 2.21.

2.23 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.19, 2.20(a) or 2.22 with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event with the object of avoiding the consequences of such event; provided that such designation is made on terms that, in the sole

judgment of such Lender, cause such Lender and its lending office(s) to suffer no material economic, legal or regulatory disadvantage and; provided, further, that nothing in this Section shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 2.19, 2.20 or 2.22.

2.24 Replacement of Lenders. The Borrower shall be permitted to replace with a financial institution or financial institutions, fund or any Lender that (a) requests reimbursement for amounts owing pursuant to Section 2.19, 2.20 or 2.21 (to the extent a request made by a Lender pursuant to the operation of Section 2.21 is materially greater than requests made by other Lenders) or gives a notice of illegality pursuant to Section 2.22, (b) defaults in its obligation to make Loans hereunder, or (c) has refused to consent to any waiver or amendment with respect to any Loan Document that requires such Lender's consent and has been consented to by the Required Lenders; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) the replacement financial institution or financial institutions shall purchase, at par, all Loans and other amounts owing to such replaced Lender on or prior to the date of replacement, (iii) the Borrower shall be liable to such replaced Lender under Section 2.21 (as though Section 2.21 were applicable) if any LIBO Rate Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (iv) the replacement financial institution or financial institutions, if not already a Lender, shall be reasonably satisfactory to the Administrative Agent to the extent that an assignment to such replacement financial institution of the rights and obligations being acquired by it would otherwise require the consent of the Administrative Agent pursuant to Section 10.6(b)(i)(B), (v) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 10.6, (vi) the Borrower shall pay all additional amounts (if any) required pursuant to Section 2.19 or 2.20, as the case may be, in respect of any period prior to the date on which such replacement shall be consummated, (vii) if applicable, the replacement financial institution or financial institutions shall consent to such amendment or waiver and (viii) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

2.25 Incremental Loans. (a) The Borrower may by written notice to the Administrative Agent elect to request the establishment of one or more new term loan or revolving commitments (the "New Loan Commitments") hereunder, in an aggregate amount for all such New Loan Commitments not in excess of \$400,000,000 plus the amount that could be incurred while at the same time remaining in compliance with the Senior Incurrence Test. Each such notice shall specify the date (each, an "Increased Amount Date") on which the Borrower proposes that the New Loan Commitments shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to Administrative Agent; provided that any Lender offered or approached to provide all or a portion of any New Loan Commitments may elect or decline, in its sole discretion, to provide such New Loan Commitment; provided that, at the request of the Borrower, the Joint Lead Arrangers (in consultation with the Borrower), will use their commercially reasonable efforts to obtain financial institutions (reasonably satisfactory to the Borrower) to provide a commitment to the extent necessary to satisfy the Borrower's request for New Loans subject to prevailing market conditions and payment of customary fees. Such New Loan Commitments shall become effective as of such Increased Amount Date; provided that (1) no Event of Default shall exist on such Increased Amount Date before or after giving effect to such New Loan Commitments and to the making of any tranche of New Loans pursuant thereto and after giving effect to any Permitted Acquisition consummated in accordance therewith; (2) the proceeds of any New Loans shall be used for general corporate purposes of the Borrower and its Subsidiaries (including Permitted Acquisitions); (3) the New Loans shall share ratably in the Collateral; (4) the New Loans that are term loans ("New Term Loans") shall share ratably in any mandatory prepayments of the existing Term Loans; (5) in the case of any New Term Loans, the maturity date thereof shall not be earlier than the Term Maturity Date and the weighted average life to maturity shall be equal to or greater than the weighted average life to maturity of the Term Loans that are not New Loans;

(6) in the case of any New Loans that are revolving loans (“New Revolving Loans”) the maturity date thereof shall be the Revolving Termination Date and such New Revolving Loans shall not require any scheduled commitment reductions prior to the Revolving Termination Date; (7) the New Revolving Loans shall share ratably in any mandatory prepayments of the existing Revolving Loans; (8) all terms and documentation with respect to any New Loans which differ from those with respect to the Loans under the applicable Facility shall be reasonably satisfactory to the Administrative Agent; (9) such New Loan Commitments shall be effected pursuant to one or more Joinder Agreements executed and delivered by the Borrower, the Administrative Agent and one or more New Lenders; and (10) the Borrower shall deliver or cause to be delivered any customary legal opinions or other documents reasonably requested by the Administrative Agent in connection with any such transaction, including any supplements or amendments to the Security Documents providing for such New Loans to be secured thereby. Any New Loans made on an Increased Amount Date that have terms and provisions that differ from those of the Term Loans or Revolving Loans, as applicable, outstanding on the date on which such New Loans are made shall be designated as a separate tranche (a “Tranche”) of Term Loans or Revolving Loans, as applicable, for all purposes of this Agreement.

(b) On any Increased Amount Date on which any New Loan Commitments become effective, subject to the foregoing terms and conditions, each lender with a New Loan Commitment (each, a “New Lender”) shall become a Lender hereunder with respect to such New Loan Commitment.

(c) The terms and provisions of the New Loan Commitments of any Tranche shall be, except as otherwise set forth in the relevant Joinder Agreement, identical to those of the applicable Loans and for purposes of this Agreement, any New Loans or New Loan Commitments shall be deemed to be Term Loans, Revolving Loans or Revolving Commitments, as applicable. Each Joinder Agreement may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 2.25.

### SECTION 3. LETTERS OF CREDIT

3.1 L/C Commitment. (a) Subject to the terms and conditions hereof, each Issuing Lender, in reliance on the agreements of the other Revolving Lenders set forth in Section 3.4(a), agrees to issue letters of credit (“Letters of Credit”) for the account of the Borrower or, provided that the Borrower is a co-obligor, any Guarantor on any Business Day during the Revolving Commitment Period in such form as may be approved from time to time by such Issuing Lender; provided that no Issuing Lender shall have any obligation to issue any Letter of Credit if, after giving effect to such issuance, (i) the L/C Obligations would exceed the L/C Commitment or (ii) the aggregate amount of the Available Revolving Commitments would be less than zero. Each Letter of Credit shall (i) be denominated in Dollars and (ii) expire no later than the earlier of (x) the first anniversary of its date of issuance and (y) the date that is three Business Days prior to the Revolving Termination Date; provided that any Letter of Credit with a one-year term may provide for the renewal thereof for additional one-year periods (which shall in no event extend beyond the date referred to in clause (y) above).

(b) No Issuing Lender shall at any time be obligated to issue any Letter of Credit if such issuance would conflict with, or cause such Issuing Lender to exceed any limits imposed by, any applicable Requirement of Law.

3.2 Procedure for Issuance of Letter of Credit. The Borrower may from time to time request that the relevant Issuing Lender issue a Letter of Credit by delivering to such Issuing Lender at its address for notices specified to the Borrower by such Issuing Lender an Application therefor, with a copy to the Administrative Agent, completed to the reasonable satisfaction of such Issuing Lender, and such

other certificates, documents and other papers and information as such Issuing Lender may reasonably request. Upon receipt of any Application, the relevant Issuing Lender will process such Application and the certificates, documents and other papers and information delivered to it in connection therewith in accordance with its customary procedures and shall promptly issue the Letter of Credit requested thereby (but in no event without the consent of the applicable Issuing Lender shall any Issuing Lender be required to issue any Letter of Credit earlier than three Business Days after its receipt of the Application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed to by such Issuing Lender and the Borrower. Such Issuing Lender shall furnish a copy of such Letter of Credit to the Borrower promptly following the issuance thereof. Each Issuing Lender shall promptly furnish to the Administrative Agent, which shall in turn promptly furnish to the relevant Lenders, notice of the issuance of each Letter of Credit issued by it (including the amount thereof).

3.3 Fees and Other Charges. (a) The Borrower will pay a fee on each outstanding Letter of Credit requested by it, at a per annum rate equal to the Applicable Margin then in effect with respect to LIBO Rate Loans under the Revolving Facility (minus the fronting fee referred to below), on the face amount of such Letter of Credit, which fee shall be shared ratably among the Revolving Lenders and payable quarterly in arrears on each Fee Payment Date after the issuance date. In addition, the Borrower shall pay to each Issuing Lender for its own account a fronting fee on the aggregate face amount of all outstanding Letters of Credit issued by it to the Borrower of 0.125% per annum, payable quarterly in arrears on each Fee Payment Date after the issuance date.

(b) In addition to the foregoing fees, the Borrower shall pay or reimburse each Issuing Lender for such normal and customary costs and expenses as are incurred or charged by such Issuing Lender in issuing, negotiating, effecting payment under, amending or otherwise administering any Letter of Credit requested by the Borrower.

3.4 L/C Participations. (a) Each Issuing Lender irrevocably agrees to grant and hereby grants to each L/C Participant, and, to induce such Issuing Lender to issue Letters of Credit, each L/C Participant irrevocably agrees to accept and purchase and hereby accepts and purchases from such Issuing Lender, on the terms and conditions set forth below, for such L/C Participant's own account and risk an undivided interest equal to such L/C Participant's Revolving Percentage in such Issuing Lender's obligations and rights under and in respect of each Letter of Credit issued by it and the amount of each draft paid by such Issuing Lender thereunder. Each L/C Participant agrees with each Issuing Lender that, if a draft is paid under any Letter of Credit issued by it for which such Issuing Lender is not reimbursed in full by the Borrower in accordance with the terms of this Agreement, such L/C Participant shall pay to the Administrative Agent for the account of such Issuing Lender upon demand an amount equal to such L/C Participant's Revolving Percentage of the amount of such draft, or any part thereof, that is not so reimbursed. Each L/C Participant's obligation to pay such amount shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such L/C Participant may have against any Issuing Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Section 5, (iii) any adverse change in the financial condition of the Borrower, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Loan Party or any other L/C Participant or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(b) If any amount required to be paid by any L/C Participant to the Administrative Agent for the account of any Issuing Lender pursuant to Section 3.4(a) in respect of any unreimbursed portion of any payment made by such Issuing Lender under any Letter of Credit is paid to the Administrative Agent for the account of such Issuing Lender within three Business Days after the date

such payment is due, such L/C Participant shall pay to the Administrative Agent for the account of such Issuing Lender on demand an amount equal to the product of (i) such amount, times (ii) the daily average Federal Funds Effective Rate during the period from and including the date such payment is required to the date on which such payment is immediately available to such Issuing Lender, times (iii) a fraction the numerator of which is the number of days that elapse during such period and the denominator of which is 360. If any such amount required to be paid by any L/C Participant pursuant to Section 3.4(a) is not made available to the Administrative Agent for the account of the relevant Issuing Lender by such L/C Participant as of the date such payment is due, such Issuing Lender shall be entitled to recover from such L/C Participant, on demand, such amount with interest thereon calculated from such due date at the rate per annum applicable to Base Rate Loans under the Revolving Facility. A certificate of the relevant Issuing Lender submitted to any relevant L/C Participant with respect to any amounts owing under this Section shall be presumptively correct in the absence of manifest error.

(c) Whenever, at any time after any Issuing Lender has made payment under any Letter of Credit and has received from any L/C Participant its pro rata share of such payment in accordance with Section 3.4(a) such Issuing Lender receives any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of collateral applied thereto by such Issuing Lender), or any payment of interest on account thereof, such Issuing Lender will distribute to the Administrative Agent for the account of such L/C Participant its pro rata share thereof; provided, however, that in the event that any such payment received by such Issuing Lender shall be required to be returned by such Issuing Lender, such L/C Participant shall return to the Administrative Agent for the account of such Issuing Lender the portion thereof previously distributed by such Issuing Lender to it.

**3.5 Reimbursement Obligation of the Borrower.** The Borrower agrees to reimburse each Issuing Lender on the Business Day following the date on which such Issuing Lender notifies the Borrower of the date and amount of a draft presented under any Letter of Credit issued by such Issuing Lender at the Borrower's request and paid by such Issuing Lender for the amount of (a) such draft so paid and (b) any taxes, fees, charges or other costs or expenses incurred by such Issuing Lender in connection with such payment (the amounts described in the foregoing clauses (a) and (b) in respect of any drawing, collectively, the "Payment Amount"). Each such payment shall be made to such Issuing Lender at its address for notices specified to the Borrower and in immediately available funds. Interest shall be payable on any such amounts from the date on which the relevant draft is paid until payment in full at a rate equal to (i) until the second Business Day next succeeding the date of the relevant notice, the rate applicable to Base Rate Loans under the Revolving Facility and (ii) thereafter, the rate set forth in Section 2.15(c). Each drawing under any Letter of Credit shall (unless an event of the type described in clause (i) or (ii) of Section 8(f) shall have occurred and be continuing with respect to the Borrower, in which case the procedures specified in Section 3.4 for funding by L/C Participants shall apply) constitute a request by the Borrower to the Administrative Agent for a borrowing pursuant to Section 2.5 of Base Rate Loans (or, at the option of the Administrative Agent and the Swingline Lender in their sole discretion, a borrowing pursuant to Section 2.7 of Swingline Loans) in the amount of such drawing. The Borrowing Date with respect to such borrowing shall be the first date on which a borrowing of Revolving Loans (or, if applicable, Swingline Loans) could be made, pursuant to Section 2.5 (or, if applicable, Section 2.7), if the Administrative Agent had received a notice of such borrowing at the time the Administrative Agent receives notice from the relevant Issuing Lender of such drawing under such Letter of Credit.

**3.6 Obligations Absolute.** The Borrower's obligations under this Section 3 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment that the Borrower may have or have had against any Issuing Lender, any beneficiary of a Letter of Credit or any other Person. The Borrower also agrees with each Issuing Lender that such Issuing Lender shall not be responsible for, and the Borrower's Reimbursement Obligations

under Section 3.5 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of such Borrower against any beneficiary of such Letter of Credit or any such transferee, or any other events or circumstances that, pursuant to applicable law or the applicable customs and practices promulgated by the International Chamber of Commerce, are not within the responsibility of such Issuing Lender, except for errors or omissions resulting from the gross negligence or willful misconduct of such Issuing Lender or its employees or agents. No Issuing Lender shall be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit, except for errors or omissions resulting from the gross negligence or willful misconduct of such Issuing Lender or its employees or agents. The Borrower agrees that any action taken or omitted by any Issuing Lender under or in connection with any Letter of Credit or the related drafts or documents, if done in the absence of gross negligence or willful misconduct and in accordance with the standards or care specified in the Uniform Commercial Code of the State of New York, shall be binding on the Borrower and shall not result in any liability of such Issuing Lender to the Borrower.

3.7 Letter of Credit Payments. If any draft shall be presented for payment under any Letter of Credit, the relevant Issuing Lender shall promptly notify the Borrower of the date and amount thereof. The responsibility of such Issuing Lender to the Borrower in connection with any draft presented for payment under any Letter of Credit issued by such Issuing Lender shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in connection with such presentment are substantially in conformity with such Letter of Credit.

3.8 Applications. To the extent that any provision of any Application related to any Letter of Credit is inconsistent with the provisions of this Agreement, the provisions of this Agreement shall apply.

#### SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Agents and the Lenders to enter into this Agreement and to make the Loans and issue or participate in the Letters of Credit, the Borrower hereby represents and warrants (as to itself, Holdings and each of its Subsidiaries) to the Agents and each Lender, which representations and warranties shall be deemed made on the Closing Date (immediately after giving effect to the Acquisition Transactions) and on the date of each borrowing of Loans or issuance of a Letter of Credit hereunder that:

4.1 Financial Condition. The audited combined balance sheet of the Allison Transmission Division as at December 31, 2004, December 31, 2005 and December 31, 2006, and the related combined statements of income and of cash flows for the fiscal years ended on such dates, reported on by and accompanied by an unqualified report from Deloitte & Touche LLP, present fairly in all material respects the financial condition of the Allison Transmission Division as at such date, and the results of its operations and its cash flows for the respective fiscal years then ended. The unaudited combined balance sheet of the Allison Transmission Division as at March 31, 2007, and the related unaudited combined statements of income and cash flows for the three-month period ended on such date, present fairly in all material respects the consolidated financial condition of the Allison Transmission Division as at such date, and the combined results of its operations and its combined cash flows for the three-month period then ended (subject to absence of footnotes and normal year-end audit adjustments). All such financial statements, including the related schedules and notes thereto and normal year end adjustments, have been prepared in accordance with GAAP (except, as otherwise noted therein and, in the case of such unaudited financial statements, subject to the absence of footnotes).

The pro forma consolidated balance sheet of the Borrower and its Subsidiaries as of March 31, 2007, has been prepared in good faith based on assumptions that are believed by the Borrower to be reasonable at the time made (it being understood that such assumptions are based on good faith estimates with respect to certain items and that the actual amounts of such items on the Closing Date is subject to variation)), (ii) accurately reflects all adjustments necessary to give effect to the Transactions and (iii) presents fairly, in all material respects, the pro forma financial position of the Borrower and its Subsidiaries as of March 31, 2007, as if the Transactions had occurred on such date; provided that such pro forma balance sheet has been prepared without giving effect to purchase accounting or similar adjustments.

4.2 No Change. (a) As of the Closing Date, there has been no event, circumstance, development, change or effect since December 31, 2006 that has had a Closing Date Material Adverse Effect.

(b) At any time after the Closing Date as of which this representation and warranty is made or deemed made, there has been no event, development or circumstance since December 31, 2006 that has had or will have a Material Adverse Effect.

4.3 Existence; Compliance with Law. Each of the Borrower and its Restricted Subsidiaries (other than any Immaterial Subsidiaries) (a) (i) is duly organized (or incorporated), validly existing and in good standing (or, only where applicable, the equivalent status in any foreign jurisdiction) under the laws of the jurisdiction of its organization or incorporation, (ii) has the corporate or organizational power and authority, and the legal right, to own and operate its Property, to lease the Property it operates as lessee and to conduct the business in which it is currently engaged, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect and (iii) is duly qualified as a foreign corporation or limited liability company and in good standing (where such concept is relevant) under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification except, in each case, to the extent that the failure to be so qualified or in good standing (where such concept is relevant) would not have a Material Adverse Effect and (b) is in compliance with all Requirements of Law except to the extent that any such failure to comply therewith would not have a Material Adverse Effect.

4.4 Corporate Power; Authorization; Enforceable Obligations. (a) Each Loan Party has the corporate power and authority to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to borrow or have Letters of Credit issued hereunder. Each Loan Party has taken all necessary corporate or other action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement.

(b) No consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority is required in connection with the extensions of credit hereunder or the execution, delivery, performance, validity or enforceability of this Agreement or any of the other Loan Documents, except (i) consents, authorizations, filings and notices described in Schedule 4.4, which consents, authorizations, filings and notices have been obtained or made and are in full force and effect or the failure to obtain which would not reasonably be expected to have a Material Adverse Effect and (ii) the filings referred to in Section 4.17.

(c) Each Loan Document has been duly executed and delivered on behalf of each Loan Party that is a party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party that is a party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be

limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law) and the implied covenants of good faith and fair dealing.

4.5 No Legal Bar. The execution, delivery and performance of this Agreement and the other Loan Documents, the issuance of Letters of Credit, the borrowings hereunder and the use of the proceeds thereof will not (a) violate the organizational or governing documents of the Loan Parties, (b) except as would not have a Material Adverse Effect, violate any Requirement of Law or any Contractual Obligation of Holdings, the Borrower or any of its Restricted Subsidiaries or (c) except as would not have a Material Adverse Effect, result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law or any such Contractual Obligation (other than the Liens permitted by Section 7.3).

4.6 No Material Litigation. No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Borrower, likely to be commenced within a reasonable time period against the Borrower or any of its Restricted Subsidiaries or against any of their Properties or revenues which, taken as a whole, (a) as of the Closing Date, involve any Loan Document or (b) would reasonably be expected to have a Material Adverse Effect.

4.7 No Default. No Default or Event of Default has occurred and is continuing.

4.8 Ownership of Property; Liens. Except as set forth in Schedule 4.8, each of the Borrower and its Restricted Subsidiaries has good title or title in fee simple, as applicable, to all its Property (other than Intellectual Property and Real Property), in each case, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and none of such Property is subject to any Lien except as permitted by the Loan Documents.

4.9 Intellectual Property. Each of the Borrower and its Restricted Subsidiaries owns, or has a valid license to use, all Intellectual Property necessary for the conduct of its business as currently conducted free and clear of all Liens, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect. To the Borrower's knowledge, no holding, injunction, decision or judgment has been rendered by any Governmental Authority and neither the Borrower nor any of its Restricted Subsidiaries has entered into any settlement stipulation or other agreement (except license agreements in the ordinary course of business) which would limit, cancel or question the validity of the Borrower's or any Restricted Subsidiary's rights in, any Intellectual Property in any respect that would reasonably be expected to have a Material Adverse Effect. To the Borrower's knowledge, no claim has been asserted or threatened or is pending by any Person challenging or questioning the use by the Borrower or its Restricted Subsidiaries of any Intellectual Property or the validity or effectiveness of any Intellectual Property, except as would not reasonably be expected to have a Material Adverse Effect. The use of Intellectual Property by the Borrower and its Restricted Subsidiaries does not infringe on the rights of any Person in a manner that would reasonably be expected to have a Material Adverse Effect. The Borrower and its Restricted Subsidiaries take all reasonable actions that in the exercise of their reasonable business judgment should be taken to protect their Intellectual Property, including Intellectual Property that is confidential in nature, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

4.10 Taxes. The Borrower and its Restricted Subsidiaries (i) filed or caused to be filed all federal, state, provincial and other tax returns that are required to be filed and (ii) paid all taxes shown to be due and payable on said returns and all other taxes, fees or other charges imposed on it or any of its Property by any Governmental Authority (other than any the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which any reserves

required in conformity with GAAP have been provided on the books of the Borrower or such Restricted Subsidiary, as the case may be), except in each case where the failure to do so would not reasonably be expected to have a Material Adverse Effect. There is no proposed tax assessment against the Borrower or its Restricted Subsidiaries that, if made, could reasonably be expected to result in a Material Adverse Effect. Neither the Borrower nor any of its Restricted Subsidiaries has ever been a party to any understanding or arrangement constituting a “tax shelter” within the meaning of Section 6662(d)(2)(C)(iii) of the Code or within the meaning of Section 6111(c) or Section 6111(d) of the Code as in effect immediately prior to the enactment of the American Jobs Creation of 2004, or has ever “participated” in a “reportable transaction” within the meaning of Treasury Regulation Section 1.6011-4, except as could not be reasonably expected to, individually or in the aggregate, result in a Material Adverse Effect.

4.11 Federal Regulations. No part of the proceeds of any Loans, and no other extensions of credit hereunder, will be used for “buying” or “carrying” any “margin stock” within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect or for any purpose that violates the provisions of the regulations of the Board. If requested by any Lender (through the Administrative Agent) or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1 referred to in Regulation U.

4.12 ERISA. (a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: neither a Reportable Event nor an “accumulated funding deficiency” (within the meaning of Section 412(a) of the Code or Section 302(a)(2) of ERISA) has occurred during the five-year period prior to the date on which this representation is made with respect to any Plan, and each Plan has complied with the applicable provisions of ERISA and the Code; no termination of a Single Employer Plan has occurred, and no Lien in favor of the PBGC or a Plan has arisen, during such five-year period; the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Plan allocable to such accrued benefits; none of Holdings, the Borrower or any of its Restricted Subsidiaries has had a complete or partial withdrawal from any Multiemployer Plan that has resulted or would reasonably be expected to result in a liability under ERISA; none of Holdings, the Borrower or any of its Restricted Subsidiaries would become subject to any liability under ERISA if the Borrower or such Restricted Subsidiary were to withdraw completely from all Multiemployer Plans as of the valuation date most closely preceding the date on which this representation is made; and no Multiemployer Plan is in Reorganization or Insolvent nor has the PBGC or Holdings or any Commonly Controlled Entity or any Multiemployer Plan instituted proceedings or taken any other action during the five year period prior to the date on which this representation is made with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any Plan.

(b) Holdings, the Borrower and its Restricted Subsidiaries have not incurred, and do not reasonably expect to incur, any liability under ERISA or the Code with respect to any plan within the meaning of Section 3(3) of ERISA which is subject to Title IV of ERISA that is maintained by a Commonly Controlled Entity (other than Holdings, the Borrower and its Restricted Subsidiaries) (a “Commonly Controlled Plan”) merely by virtue of being treated as a single employer under Title IV of ERISA with the sponsor of such plan that would reasonably be likely to have a Material Adverse Effect and result in a direct obligation of Holdings, the Borrower or any of its Restricted Subsidiaries to pay money.

4.13 Investment Company Act. No Loan Party is an “investment company”, or a company “controlled” by an “investment company”, within the meaning of the Investment Company Act of 1940, as amended.

4.14 Subsidiaries. (a) The Subsidiaries listed on Schedule 4.14 constitute all the Subsidiaries of the Borrower at the date of this Agreement (and after giving effect to the Acquisition Transactions). Schedule 4.14 sets forth as of the Closing Date the name and jurisdiction of incorporation of each Subsidiary and, as to each Subsidiary, the percentage of each class of Capital Stock owned by any Loan Party and the designation of such Subsidiary as a Restricted Subsidiary, an Immaterial Subsidiary and/or an Unrestricted Subsidiary.

(b) As of the Closing Date (and after giving effect to the Acquisition Transactions), except as set forth on Schedule 4.14 or as otherwise contemplated by the Acquisition Agreement, there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to officers, employees or directors and directors’ qualifying shares) of any nature relating to any Capital Stock of the Borrower or any of its Restricted Subsidiaries.

4.15 Environmental Matters. Other than exceptions to any of the following that would not reasonably be expected to have a Material Adverse Effect, none of the Borrower or any of its Restricted Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law for the operation of the Business; or (ii) has become subject to any Environmental Liability.

4.16 Accuracy of Information, etc. No statement or information (excluding the projections and pro forma financial information referred to below) contained in this Agreement, any other Loan Document or any certificate furnished to the Administrative Agent or the Lenders or any of them, by or on behalf of any Loan Party for use in connection with the transactions contemplated by this Agreement or the other Loan Documents when taken as a whole, contained as of the date such statement, information, or certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements contained herein or therein not materially misleading. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

4.17 Security Documents. (a) The Guarantee and Collateral Agreement is effective to create in favor of the Administrative Agent for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral described therein (including any proceeds of any item of Collateral); provided, that for purposes of this Section 4.17(a), Collateral shall be deemed to exclude any Deposit Accounts (as defined in the Guarantee and Collateral Agreement). In the case of (i) the Pledged Securities described in the Guarantee and Collateral Agreement, when any stock certificates or notes, as applicable, representing such Pledged Securities are delivered to the Administrative Agent and (ii) the other Collateral described in the Guarantee and Collateral Agreement, when financing statements in appropriate form are filed in the offices specified on Schedule 4.17 (which financing statements have been duly completed and executed (as applicable) and delivered to the Administrative Agent) and such other filings as are specified on Schedule 3 to the Guarantee and Collateral Agreement are made, the Collateral Agent shall have a fully perfected first priority Lien on, and security interest in, all right, title and interest of the applicable Loan Parties in such Collateral (including any proceeds of any item of Collateral) (to the extent a security interest in such Collateral can be perfected through the filing of

financing statements and the filings specified on Schedule 3 to the Guarantee and Collateral Agreement, and through the delivery of the Pledged Securities required to be delivered on the Closing Date), as security for the Obligations, in each case prior and superior in right to any other Person (except (i) in the case of Collateral other than Pledged Stock, Liens permitted by Section 7.3, (ii) in the case of Collateral consisting of Pledged Shares, Liens permitted by Section 7.3(g) to the extent securing Indebtedness expressly permitted by Section 7.2(u) and (iii) Liens having priority by operation of law) to the extent required by the Guarantee and Collateral Agreement.

(b) Upon the execution and delivery of any Mortgage to be executed and delivered pursuant to Sections 6.8(b) and 6.11, such Mortgage shall be effective to create in favor of the Administrative Agent for the benefit of the Secured Parties a legal, valid and enforceable Lien on the mortgaged property described therein and proceeds thereof; and when such Mortgage is filed in the recording office designated by the Borrower, such Mortgage shall constitute a fully perfected first priority Lien on, and security interest in, all right, title and interest of the applicable Loan Parties in such mortgaged property and the proceeds thereof, as security for the Obligations (as defined in the relevant Mortgage), in each case prior and superior in right to any other Person (other than Liens permitted by Section 7.3 or other encumbrances or rights permitted by the relevant Mortgage).

4.18 Solvency. The Borrower is (on a consolidated basis), and after giving effect to the Transactions will be, Solvent.

4.19 Labor Matters. (a) There are no strikes, work stoppages, slowdowns or lockouts pending or threatened against or involving the Borrower or any of its Restricted Subsidiaries, other than those that, in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(b) There are no unfair labor practices, charges, grievances, complaints or arbitrations pending, or, to the Borrower's knowledge, threatened, against or involving Holdings, the Borrower or any of their Subsidiaries, other than those that, in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(c) Except as set forth on Schedule 4.19, as of the Closing Date, there is no material labor or collective bargaining agreement covering any employee of Holdings, the Borrower or any of their Subsidiaries.

4.20 Real Property. (a) Schedule 4.20A sets forth a complete list of all material real property owned by the Borrower or any Restricted Subsidiary as of the Closing Date (each, an "Owned Property"), and Schedule 4.20B sets forth a complete list of all material leases of real property under which the Borrower or a Restricted Subsidiary is the lessee (the "Leases" and, together with the Owned Property, the "Real Property").

(b) Except as disclosed in Schedule 4.20A, the Borrower and/or its Restricted Subsidiaries have good and valid fee simple title to all Owned Properties, free and clear of all Liens, other than Liens permitted in Section 7.3 except, in each case, as could reasonably be expected to have a Material Adverse Effect.

(c) Except as disclosed in Schedule 4.20B, the Borrower and/or a Restricted Subsidiaries has valid leasehold interests in and to the properties pursuant to the Leases free and clear of all Liens (on such leasehold interests) except Liens permitted in Section 7.3 except, in each case, as could reasonably be expected to have a Material Adverse Effect.

SECTION 5. CONDITIONS PRECEDENT

5.1 Conditions to Initial Extension of Credit. The agreement of each Lender to make the initial extension of credit requested to be made by it is subject to the satisfaction (or waiver), prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

(a) Credit Agreement; Security Documents. The Administrative Agent shall have received (i) this Agreement, executed and delivered by the Administrative Agent, the Collateral Agent, Holdings, the Borrower, the Joint Lead Arrangers, Citicorp North America, Inc. (in its capacity as a Lender), Lehman Commercial Paper Inc. (in its capacity as a Lender), Merrill Lynch Capital Corporation (in its capacity as a Lender) and Sumitomo Mitsui Banking Corporation (in its capacity as a Lender) and (ii) the Guarantee and Collateral Agreement, executed and delivered by the Borrower, Holdings and each Subsidiary Guarantor.

(b) Senior Interim Loan Facility. The Administrative Agent shall have received evidence that the Senior Interim Loan Agreement executed and delivered by all Persons stated to be a party thereto.

(c) Transaction, etc. The following transactions shall be consummated:

(i) Acquisition. The Acquisition Transactions shall be consummated concurrently with the initial funding of the Loans on the Closing Date (A) in accordance with the Acquisition Agreement and the related disclosure schedules and exhibits thereto, without waiver or amendment thereof (other than any such waivers or amendments (including, without limitation, with respect to any representations and warranties in the Acquisition Agreement) as are not materially adverse to Lenders as of the Closing Date or the Joint Lead Arrangers) unless consented to by each Joint Lead Arranger (which consent shall not be unreasonably withheld or delayed) or (B) on such other terms and conditions as are reasonably satisfactory to each Joint Lead Arranger.

(ii) Equity Financing. The Permitted Investors shall have made equity contributions to, or purchased for cash equity of, Holdings in an aggregate amount that constitutes not less than 20% of the Borrower's pro forma consolidated capitalization (after giving effect to the Transactions), and Holdings shall have contributed in cash such amount as a common equity contribution to the Borrower and the Borrower shall have used such equity contribution to consummate the Acquisition Transactions.

(iii) Senior Interim Loan Facility. The Senior Interim Loans shall have been issued resulting in gross proceeds to the Borrower of \$1,100,000,000.

(d) Solvency Certificate. The Administrative Agent shall have received a solvency certificate signed by the chief financial officer on behalf of the Borrower, substantially in the form of Exhibit G hereto.

(e) Lien Searches. The Administrative Agent shall have received the results of a recent lien search in each of the jurisdictions in which Uniform Commercial Code financing statements or other filings or recordations should be made to evidence or perfect security interests in all assets of the Loan Parties, and such search shall reveal no liens on any of the assets of the

Loan Party, except for Liens permitted by Section 7.3 or liens to be discharged on or prior to the Closing Date.

(f) Closing Certificate. The Administrative Agent shall have received a certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit C, with appropriate insertions and attachments.

(g) Legal Opinions. The Administrative Agent shall have received an executed legal opinion of Latham & Watkins LLP, counsel to the Loan Parties, substantially in the form of Exhibit E.

(h) Pledged Stock; Stock Powers. The Administrative Agent shall have received the certificates representing the shares of Capital Stock held by a Loan Party pledged pursuant to the Guarantee and Collateral Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof.

(i) Filings, Registrations and Recordings. Each document (including, without limitation, any Uniform Commercial Code financing statement) required by the Security Documents to be filed, registered or recorded in order to create in favor of the Administrative Agent for the benefit of the Secured Parties, a perfected first priority Lien on the Collateral described therein with the priority provided for in the Security Documents, shall have been delivered to the Administrative Agent in proper form for filing, registration or recordation.

(j) Insurance. The Administrative Agent shall have received insurance certificates satisfying the requirements of Section 6.5(c).

(k) Financial Statements; Pro Forma Financial Statements. Each Joint Lead Arranger shall have received (i) at least 20 days prior to the Closing Date, audited financial statements of Allison Transmission Division for each of the fiscal years ending December 31, 2004, 2005 and 2006, (ii) interim unaudited financial statements of Allison Transmission Division for each quarter period ended after December 31, 2006 and at least 60 days prior to the Closing Date and (iii) the unaudited pro forma consolidated financial statements dated as of March 31, 2007 of the Borrower and its consolidated Subsidiaries (the "Pro Forma Financial Statements") giving effect (as if such events had occurred on such date) to (A) the Transactions, including the Loans to be made on the Closing Date and the use of the proceeds thereof and (B) the payment of fees and expenses in connection with the foregoing.

(l) USA Patriot Act. The Lenders shall have received from each of the Loan Parties documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the USA Patriot Act.

(m) Specified Representations. The Specified Representations shall be true and correct.

(n) Certain Limitations. Notwithstanding anything in any Loan Document to the contrary, (i) other than with respect to any Closing Date UCC Filing Collateral or Closing Date Stock Certificates, to the extent any guarantee or collateral is not provided on the Closing Date after the Borrower's use of commercially reasonable efforts to do so, the delivery of such guarantee and/or collateral shall not constitute a condition precedent to the availability of the Loans on the Closing Date, (ii) with respect to perfection of security interests in the Closing Date

UCC Filing Collateral, the Borrower's sole obligation shall be to deliver, or cause to be delivered, necessary UCC financing statements to the Administrative Agent or to irrevocably authorize or cause the applicable Guarantor to irrevocably authorize the Administrative Agent to file necessary UCC financing statements and (iii) with respect to perfection of security interests in Closing Date Stock Certificates, the Borrower's sole obligation shall be to deliver to the Administrative Agent (x) the Stock Certificates of the Borrower duly endorsed in blank and (y) such other Closing Date Stock Certificates as and to the extent they are delivered to the Borrower by the Sellers pursuant to the Acquisition Agreement duly endorsed in blank.

(o) Fees. The Administrative Agent shall have received all fees and expenses required to be paid by the Borrower, and for which invoices have been presented (including the fees and expenses of legal counsel).

5.2 Conditions to Each Revolving Loan Extension of Credit After Closing Date. The agreement of each Lender to make any Loan or to issue or participate in any Letter of Credit hereunder on any date after the Closing Date is subject to the satisfaction of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct in all material respects, in each case on and as of such date as if made on and as of such date except to the extent that such representations and warranties relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date.

(b) No Default. No Default or Event of Default shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

Each borrowing by and issuance of a Letter of Credit on behalf of the Borrower hereunder on any date after the Closing Date shall constitute a representation and warranty by the Borrower as of the date of such extension of credit that the conditions contained in this Section 5.2 have been satisfied.

## SECTION 6. AFFIRMATIVE COVENANTS

The Borrower (on behalf of itself and each of the Restricted Subsidiaries) hereby agrees that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding (that has not been cash collateralized or backstopped on terms reasonably acceptable to the applicable Issuing Bank) or any Loan or other amount is owing to any Lender or any Agent hereunder (other than (i) contingent or indemnification obligations not then due and (ii) obligations in respect of Specified Hedge Agreements or Cash Management Obligations), the Borrower shall, and shall cause each of the Restricted Subsidiaries to:

6.1 Financial Statements. Furnish to the Administrative Agent for delivery to each Lender (which may be delivered via posting on Intralinks™):

(a) within 90 days after the end of each fiscal year of the Borrower, commencing with the fiscal year ending December 31, 2007, a copy of the audited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such year and the related audited consolidated statements of income and of cash flows for such year, setting forth in each case in comparative form the figures as of the end of and for the previous year, reported on without qualification arising out of the scope of the audit or any other material qualification, by

Deloitte & Touche LLP or other independent certified public accountants of nationally recognized standing; and

(b) commencing with the first fiscal quarter ending after the Closing Date, as soon as available, but in any event not later than 45 days after the end of each of the first three quarterly periods of each fiscal year of the Borrower (other than the first fiscal quarter following the Closing Date which may be delivered within 90 days after the end of such quarter) the unaudited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such quarter and the related unaudited consolidated statements of income and of cash flows for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures as of the end of and for the corresponding period in the previous year, commencing with the fiscal quarter ending March 31, 2008, certified by a Responsible Officer on behalf of the Borrower as being fairly stated in all material respects (subject to normal year-end audit adjustments and the lack of notes);

all such financial statements to be complete and correct in all material respects and to be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods (except as disclosed therein and except in the case of the financial statements referred to in clause (b), for customary year-end adjustments and the absence of footnotes).

Documents required to be delivered pursuant to this Section 6.1 may be delivered by posting such documents electronically with notice of such posting to the Administrative Agent and each Lender and if so posted, shall be deemed to have been delivered on the date on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent).

6.2 Certificates; Other Information. Furnish to the Administrative Agent for delivery to each Lender, or, in the case of clause (g), to the relevant Lender:

(a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a certificate of the independent certified public accountants in customary form reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate;

(b) concurrently with the delivery of any financial statements pursuant to Section 6.1, (i) a Compliance Certificate of a Responsible Officer on behalf of the Borrower stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and (ii) to the extent not previously disclosed to the Administrative Agent, a description of any new Subsidiary and of any change in the jurisdiction of organization of any other Loan Party and a listing of any material Intellectual Property filings by any Borrower and Subsidiary Guarantors since the date of the most recent list delivered pursuant to this clause (or, in the case of the first such list so delivered, since the Closing Date);

(c) as soon as available, but in any event not later than 45 days after the end of each fiscal year of the Borrower (commencing with the fiscal year ending on December 31, 2007), a detailed consolidated budget for the following fiscal year (including a projected consolidated balance sheet of the Borrower and its Subsidiaries as of the end of the following fiscal year and the related consolidated statements of projected cash flow and projected income (collectively, the "Annual Operating Budget"));

(d) promptly after the same are sent, copies of all financial statements and reports that the Borrower sends to the holders of any class of its debt securities or public equity securities (except for Permitted Investors) and, promptly after the same are filed, copies of all financial statements and reports that the Borrower may make to, or file with, the SEC, in each case to the extent not already provided pursuant to Section 6.1 or any other clause of this Section 6.2;

(e) promptly upon delivery thereof to the Borrower and to the extent permitted, copies of any accountants' letters addressed to its Board of Directors (or any committee thereof); and

(f) promptly upon receipt thereof, notice of any default or event of default under the Senior Interim Loan Facility and, prior to the effectiveness thereof, copies of substantially final drafts of any proposed amendment, supplement, waiver or other modification with respect to the Senior Interim Loan Facility;

(g) promptly, such additional financial and other information as the Administrative Agent (for its own account or upon the request from any Lender) may from time to time reasonably request.

Documents required to be delivered pursuant to this Section 6.2 may be delivered by posting such documents electronically with notice of such posting to the Administrative Agent and each Lender and if so posted, shall be deemed to have been delivered on the date on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent).

6.3 Payment of Taxes. Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material taxes, governmental assessments and governmental charges (other than Indebtedness), except (a) where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves required in conformity with GAAP with respect thereto have been provided on the books of the Borrower or its Restricted Subsidiaries, as the case may be or (b) to the extent that failure to pay, discharge or satisfy such obligations would not reasonably be expected to have a Material Adverse Effect.

6.4 Conduct of Business and Maintenance of Existence, etc.; Compliance. (a) Preserve, renew and keep in full force and effect its corporate or other existence and take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.4 or except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect; and (b) comply with all Requirements of Law, including but not limited to Environmental Laws, except to the extent that failure to comply therewith would not reasonably be expected to have a Material Adverse Effect.

6.5 Maintenance of Property; Insurance. (a) Keep all Property useful and necessary in its business in reasonably good working order and condition, ordinary wear and tear excepted, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

(b) Take all reasonable and necessary steps, including, without limitation, in any proceeding before the United States Patent and Trademark Office or the United States Copyright Office, to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of the material Intellectual Property, including, without limitation, filing of applications for renewal, affidavits of use and affidavits of incontestability, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

(c) Maintain insurance with financially sound and reputable insurance companies on all its material Property in at least such amounts and against at least such risks (but including in any event public liability, product liability and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business. All such insurance shall, to the extent customary (but in any event, not including business interruption insurance and personal injury insurance) (i) provide that no cancellation thereof shall be effective until at least 10 days after receipt by the Administrative Agent of written notice thereof and (ii) name the Administrative Agent as insured party or loss payee.

6.6 Inspection of Property; Books and Records; Discussions. (a) Keep proper books of records and account in which full, true and correct entries in conformity with GAAP and all Requirements of Law shall be made of all material financial dealings and transactions in relation to its business and activities, (b) permit representatives of any Lender to visit and inspect any of its properties and examine and make abstracts from any of its books and records upon reasonable notice and during normal business hours (provided that such visits shall be coordinated by the Administrative Agent, and such visits shall be limited to no more than one such visit per calendar year, in each case, except during the continuance of an Event of Default), (c) permit representatives of any Lender to have reasonable discussions regarding the business, operations, properties and financial and other condition of the Borrower and its Restricted Subsidiaries with officers and employees of the Borrower and its Restricted Subsidiaries and (d) permit representatives of the Administrative Agent to have reasonable discussions regarding the business, operations, properties and financial and other condition of the Borrower and its Restricted Subsidiaries with its independent certified public accountants; provided that a Responsible Officer of the Borrower shall be present during such discussion and any such discussions with the Borrower's independent certified public accountants shall be coordinated by the Administrative Agent, and such visits shall be at the Lender's expense and shall be limited to no more than one such visit per calendar year, in each case, except during the continuance of an Event of Default.

6.7 Notices. Promptly upon a Responsible Officer of the Borrower or any Subsidiary Guarantor obtaining knowledge thereof, give notice to the Administrative Agent (who shall promptly notify each Lender) of:

(a) the occurrence of any Default or Event of Default;

(b) any litigation, investigation or proceeding which may exist at any time between the Borrower or any of its Restricted Subsidiaries and any other Person, that in either case, would reasonably be expected to have a Material Adverse Effect;

(c) the following events, that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect, as soon as possible and in any event within 30 days after the Borrower or any Subsidiary Guarantor knows thereof: (i) the occurrence of any Reportable Event with respect to any Plan, a failure to make any required contribution to a Plan, the creation of any Lien in favor of the PBGC or a Plan or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan, (ii) the institution of proceedings or the taking of any other action by the PBGC or Holdings or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any Plan or (iii) the occurrence of any similar events with respect to a Commonly Controlled Plan, that would reasonably be likely to result in a direct obligation of the Borrower or any of its Restricted Subsidiaries to pay money;

(d) any development or event that has had or would reasonably be expected to have a Material Adverse Effect;

(e) the acquisition of any Property after the Closing Date in which the Collateral Agent does not already have a perfected security interest and in which a security interest is required to be created or perfected pursuant to Section 6.8; and

(f) (i) the occurrence of any material labor dispute to which the Borrower or any of its Subsidiaries is or may become a party, including any strikes, work stoppages, slowdowns, lockouts or other disputes relating to any of such Person's plants and other facilities, and (ii) the incurrence of any material Worker Adjustment and Retraining Notification Act or related liability with respect to the closing of any plant or other facility of any such Person.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Borrower or the relevant Restricted Subsidiary proposes to take with respect thereto.

6.8 Additional Collateral, etc. (a) With respect to any Property (other than Property to the extent expressly excluded from the Collateral pursuant to the Security Documents) located in the United States having a value, individually or in the aggregate of at least \$10,000,000 acquired after the Closing Date by the Borrower and any Subsidiary Guarantor (other than (x) any interests in real property and any Property described in paragraph (c) or paragraph (d) of this Section, (y) any Property subject to a Lien expressly permitted by Section 7.3(g), 7.3(k) or 7.3(aa) and (z) Instruments, Certificated Securities, Securities and Chattel Paper, which are referred to in the last sentence of this paragraph (a) as to which the Administrative Agent for the benefit of the Secured Parties does not have a perfected Lien, promptly (i) give notice of such Property to the Administrative Agent and execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement or such other documents as the Administrative Agent reasonably requests to grant to the Administrative Agent for the benefit of the Secured Parties a security interest in such Property and (ii) take all actions reasonably requested by the Administrative Agent to grant to the Administrative Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents) in such Property (with respect to Property of a type owned by the Borrower or a Subsidiary Guarantor as of the Closing Date to the extent the Administrative Agent for the benefit of the Secured Parties, has a perfected security interest in such Property as of the Closing Date), including, without limitation, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be reasonably requested by the Administrative Agent. If any amount in excess of \$10,000,000 payable under or in connection with any of the Collateral shall be or become evidenced by any Instrument, Certificated Security, Security or Chattel Paper (or, if more than \$10,000,000 in the aggregate payable under or in connection with the Collateral shall become evidenced by Instruments, Certificated Securities, Securities or Chattel Paper), such Instrument, Certificated Security, Security or Chattel Paper shall be promptly delivered to the Administrative Agent indorsed in a manner reasonably satisfactory to the Administrative Agent to be held as Collateral pursuant to this Agreement.

(b) With respect to any fee interest in any real property located in the United States having a value (together with improvements thereof) of at least \$5,000,000 acquired after the Closing Date by the Borrower or a Subsidiary Guarantor (other than any such real property subject to a Lien expressly permitted by Section 7.3(g), 7.3(k) or 7.3(aa)), (i) give notice of such acquisition to the Administrative Agent and, if requested by the Administrative Agent execute and deliver a first priority Mortgage (subject to Liens Permitted by Section 7.3) in favor of the Administrative Agent for the benefit of the Secured Parties, covering such real property (provided that no Mortgage nor survey shall be obtained if the Administrative Agent determines in consultation with the Borrower that the costs of obtaining such Mortgage or survey are excessive in relation to the value of the security to be afforded thereby), (ii) if reasonably requested by the Administrative Agent (A) provide the Lenders with a lenders'

title insurance policy with extended coverage covering such real property in an amount at least equal to the purchase price of such real property (or such other amount as shall be reasonably specified by the Administrative Agent) as well as a current ALTA survey thereof, together with a surveyor's certificate unless the title insurance policy referred to above shall not contain an exception for any matter shown by a survey (except to the extent an existing survey has been provided and specifically incorporated into such title insurance policy), each in form and substance reasonably satisfactory to the Administrative Agent, and (B) use commercially reasonable efforts to obtain any consents or estoppels reasonably deemed necessary by the Administrative Agent, in connection with such Mortgage, each of the foregoing in form and substance reasonably satisfactory to the Administrative Agent, (iii) provide to the Administrative Agent evidence of flood hazard insurance if any portion of the improvements on the owned property is currently or at any time in the future identified by the Federal Emergency Management Agency as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 (and any amendment or successor act thereto) or otherwise being designated as a "special flood hazard area or part of a 100 year flood zone", in an amount equal to 100% of the full replacement cost of the improvements; provided, however, that a portion of such flood hazard insurance may be obtained under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended and (iv) if requested by the Administrative Agent deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(c) Except as otherwise contemplated by Section 7.7(p), with respect to any new Domestic Subsidiary that is a Material Subsidiary (and is not an Unrestricted Subsidiary) created or acquired after the Closing Date (which, for the purposes of this paragraph, shall include (x) any previously non-wholly owned Domestic Subsidiary that becomes wholly owned and is a Material Subsidiary (and is not an Unrestricted Subsidiary) and (y) any Domestic Subsidiary that was previously an Immaterial Subsidiary or an Unrestricted Subsidiary and becomes a Material Subsidiary (and is not an Unrestricted Subsidiary) or a Restricted Subsidiary, as applicable) by the Borrower or any Restricted Subsidiary, promptly (i) give notice of such acquisition or creation to the Administrative Agent and, if requested by the Administrative Agent, execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement or such other documents as the Administrative Agent reasonably deems necessary to grant to the Administrative Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents) in the Capital Stock of such new Subsidiary that is owned by such Loan Party, (ii) except to the extent they are the subject of a Lien securing Indebtedness permitted under Section 7.2(u), deliver to the Administrative Agent the certificates, if any, representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of such Loan Party, and (iii) if such new Subsidiary is a wholly owned Domestic Subsidiary (and is not an Unrestricted Subsidiary or an Immaterial Subsidiary), cause such new Subsidiary (A) to become a party to the Guarantee and Collateral Agreement and (B) to take such actions necessary or advisable to grant to the Administrative Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents) in the Collateral described in the Guarantee and Collateral Agreement with respect to such new Subsidiary (to the extent the Administrative Agent, for the benefit of the Secured Parties, has a perfected first priority security interest in the same type of Collateral as of the Closing Date), including, without limitation, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be reasonably requested by the Administrative Agent. Notwithstanding the foregoing, if substantially all of the assets of any new Domestic Subsidiary that is a Material Subsidiary (and is not an Unrestricted Subsidiary) consist of stock of one or more Foreign Subsidiaries, such new Domestic Subsidiary will be treated as a Foreign Subsidiary subject to Section 6.8(d) hereof instead of this Section 6.8(c), and, for the avoidance of doubt,

any first tier Foreign Subsidiaries owned directly by such Domestic Subsidiary shall be subject to Section 6.8(d) hereof.

(d) Except as otherwise contemplated by Section 7.7(p), with respect to any new first tier Foreign Subsidiary that is a Material Subsidiary (and is not an Unrestricted Subsidiary) created or acquired after the Closing Date (which, for the purposes of this paragraph, shall include any first-tier Foreign Subsidiary that previously was an Immaterial Subsidiary or an Unrestricted Subsidiary and becomes a Material Subsidiary or a Restricted Subsidiary, as applicable) by the Borrower or any Restricted Subsidiary, promptly (i) give notice of such acquisition or creation to the Administrative Agent and, if requested by the Administrative Agent, execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement as the Administrative Agent deems necessary or reasonably advisable in order to grant to the Administrative Agent, for the benefit of the Secured Parties, a perfected security interest (to the extent required by the Security Documents) in the Capital Stock of such new Subsidiary that is owned by such Loan Party (provided that in no event shall more than 65% of the total outstanding voting Capital Stock of any Foreign Subsidiary be required to be so pledged), and (ii) except to the extent they are the subject of a Lien securing Indebtedness permitted under Section 7.2(u), to the extent permitted by applicable law, deliver to the Administrative Agent the certificates, if any, representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of such Loan Party, and take such other action as may be necessary or, in the reasonable opinion of the Administrative Agent, necessary to perfect or ensure appropriate priority the Lien of the Administrative Agent thereon.

(e) Notwithstanding anything in this Section 6.8 to the contrary, neither the Borrower nor any of its Restricted Subsidiaries shall be required to take any actions in order to perfect the security interest granted to the Administrative Agent for the ratable benefit of the Secured Parties under the laws of any jurisdiction outside the United States.

6.9 Further Assurances. Maintain the security interest created by the Security Documents as a perfected security interest (to the extent such security interest can be perfected through the filing of UCC-1 financing statements, the Intellectual Property filings to be made pursuant to Schedule 3 of the Guarantee and Collateral Agreement or the delivery of Pledged Securities required to be delivered under the Guarantee and Collateral Agreement), subject to the rights of the Borrower and the Subsidiary Guarantors to dispose of the Collateral. From time to time the Loan Parties shall execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take all such actions, as the Administrative Agent may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of renewing the rights of the Secured Parties with respect to the Collateral as to which the Administrative Agent, for the ratable benefit of the Secured Parties, has a perfected Lien pursuant hereto or thereto, including, without limitation, filing any financing or continuation statements or financing change statements under the Uniform Commercial Code (or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby. Notwithstanding anything in this Section 6.9 to the contrary, neither the Borrower nor any of its Restricted Subsidiaries shall be required to take any actions in order to perfect the security interest granted to the Collateral Agent for the ratable benefit of the Secured Parties under the laws of any jurisdiction outside the United States.

6.10 Use of Proceeds. Use the proceeds of the Term Loans to effect the Acquisition Transactions and to pay related fees, commissions and expenses. The proceeds of the Revolving Loans, the Swingline Loans and the Letters of Credit shall be used to finance a portion of the Acquisition Transactions (including purchase price adjustments) and, after the Closing Date, to finance Permitted Acquisitions and Investments permitted hereunder and for other general corporate purposes of the Borrower and its Subsidiaries not prohibited by this Agreement.

6.11 Post-Closing Undertakings. Within the time period specified on Schedule 6.11 (or such later date to which the Administrative Agent consents), comply with the provisions set forth in Schedule 6.11.

6.12 Unrestricted Subsidiaries. Within 15 Business Days of designation of any Subsidiary as an unrestricted Subsidiary, provide the Administrative Agent with (a) a copy of the resolution of the board of directors of the Borrower or any committee thereof giving effect to such designation of a Subsidiary as an Unrestricted Subsidiary and (b) a certificate signed by a Responsible Officer certifying that such designation complied with the provisions contained in the definition of "Unrestricted Subsidiary" in Section 1.1.

#### SECTION 7. NEGATIVE COVENANTS

The Borrower (on behalf of itself, each of the Restricted Subsidiaries and Holdings, as applicable) hereby agrees that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding (that has not been (i) cash collateralized or (ii) backstopped on terms reasonably acceptable to the applicable Issuing Bank) or any Loan or other amount is owing to any Lender or any Agent hereunder (other than (i) contingent or indemnification obligations not then due and (ii) obligations in respect of Specified Hedge Agreements or Cash Management Obligations), the Borrower shall not, and shall not permit any of the Restricted Subsidiaries to:

##### 7.1 Total Senior Secured Leverage Ratio.

(a) Permit the Total Senior Secured Leverage Ratio of the Borrower as at the last day of any period of four consecutive fiscal quarters of the Borrower ending on any of the dates set forth below to exceed the ratio set forth below opposite such date:

<u>Period:</u>	<u>Total Senior Secured Leverage Ratio:</u>
December 31, 2007	8.00 : 1.00
March 31, 2008	8.25 : 1.00
June 30, 2008	8.25 : 1.00
October 31, 2008	8.25 : 1.00
December 31, 2008	7.75 : 1.00
March 31, 2009	7.75 : 1.00
June 30, 2009	7.50 : 1.00
October 31, 2009	7.25 : 1.00
December 31, 2009	7.00 : 1.00
March 31, 2010	6.75 : 1.00
June 30, 2010	6.50 : 1.00
October 31, 2010	6.25 : 1.00
December 31, 2010	6.00 : 1.00
March 31, 2011	6.00 : 1.00
June 30, 2011	5.75 : 1.00
October 31, 2011	5.75 : 1.00
December 31, 2011 and thereafter	5.50 : 1.00

Notwithstanding the foregoing, if on the last day of any fiscal quarter set forth above the Total Senior Secured Leverage Ratio exceeds the applicable ratio set forth above by not more than 0.50:1.00 (after giving effect to the application of any Specified Equity Contribution for such fiscal quarter, if applicable), the Borrower may elect by written notice to the Administrative Agent to be delivered any time on or after the first day and prior to the day that is ten Business Days after the day on which financial statements are required to be delivered for such fiscal quarter pursuant to Section 6.1 to increase the Applicable Margin by 0.25% for the next fiscal quarter (retroactive to the first day of such fiscal quarter) and upon such election the Borrower shall be deemed to be in compliance with this Section 7.1(a) (the “Rate-Based Cure”); provided that the Rate-Based Cure shall only be available for any four separate fiscal quarter periods (but no more than two consecutive fiscal quarter periods) during the term of the Facilities. The Rate-Based Cure shall be separate and apart from a Specified Equity Contribution made pursuant to clause (b) below and both may be applied in the same fiscal quarter.

(b) For purposes of determining compliance with the financial covenant set forth in clause (a) above only (and not any other provision of this Agreement, including any such other provision that utilizes a calculation of Consolidated EBITDA), (i) any cash common equity contribution or (ii) any other equity contribution on terms reasonably acceptable to the Administrative Agent (that does not constitute Disqualified Capital Stock), in each case made by Holdings or any Parent Company to the Borrower, on or after the first day of any fiscal quarter and prior to the day that is 15 Business Days after the day on which financial statements are required to be delivered for such fiscal quarter pursuant to Section 6.1 (it being understood that each such contribution shall be credited with respect to only one fiscal quarter; provided that such credit shall be effective as to such fiscal quarter for all periods in which such fiscal quarter is included) will, at the request of the Borrower, be deemed to increase, dollar for dollar, Consolidated EBITDA for such fiscal quarter for the purposes of determining compliance with such financial covenant at the end of such fiscal quarter and applicable subsequent periods (any such equity contribution so included in the calculation of Consolidated EBITDA, a “Specified Equity Contribution”); provided further that (i) in each four fiscal quarter period there shall be a period of at least two fiscal quarters in which no Specified Equity Contribution is made, (ii) the amount of any Specified Equity Contribution shall be no greater than the amount required to cause the Borrower to be in compliance with the financial covenant set forth in clause (a) above and (iii) all Specified Equity Contributions shall be disregarded for purposes of determining any other calculations or amounts with respect to any other provisions contained in this Agreement.

7.2 Indebtedness. Create, issue, incur, assume, or permit to exist any Indebtedness, except:

(a) Indebtedness of the Borrower and any Restricted Subsidiary pursuant to any Loan Document or Hedge Agreement or in respect of any Cash Management Obligations;

(b) Indebtedness (i) of the Borrower to any of its Restricted Subsidiaries or of any Subsidiary Guarantor to the Borrower or any Restricted Subsidiary; provided that any such Indebtedness owing to a Restricted Subsidiary that is not a Subsidiary Guarantor is expressly subordinated in right of payment to the Obligations pursuant to the Guarantee and Collateral Agreement or otherwise, (ii) of any Non-Guarantor Subsidiary that is a Domestic Subsidiary to any other Non-Guarantor Subsidiary that is a Domestic Subsidiary and (iii) of any Non-Guarantor Subsidiary that is a Foreign Subsidiary to any other Non-Guarantor Subsidiary that is a Foreign Subsidiary;

(c) Indebtedness (including, without limitation, Indebtedness incurred in connection with sale-leaseback transactions and Capital Lease Obligations) secured by Liens permitted by Section 7.3(g) in an aggregate principal amount not to exceed the greater of (A) \$100,000,000 and (B) 15% of Consolidated EBITDA as of the end of the four fiscal quarter period most recently ended immediately prior to the date of such incurrence for which financial statements have been delivered pursuant to Section 6.1 at any one time outstanding;

(d) Indebtedness outstanding on the date hereof and listed on Schedule 7.2(d) and any Permitted Refinancings thereof;

(e) Guarantee Obligations (i) by the Borrower or any of its Restricted Subsidiaries of obligations of the Borrower or any Subsidiary Guarantor not prohibited by this Agreement to be incurred, (ii) by any Non-Guarantor Subsidiary of obligations of any Non-Guarantor Subsidiary that is a Domestic Subsidiary and (iii) by any Non-Guarantor Subsidiary that is a Foreign Subsidiary of obligations of any other Non-Guarantor Subsidiary that is a Foreign Subsidiary;

(f) Indebtedness of Foreign Subsidiaries of the Borrower and Indebtedness of Non-Guarantor Subsidiaries in respect of local lines of credit, letters of credit, bank guarantees, factoring arrangements and similar extensions of credit in the ordinary course of business in an aggregate principal amount outstanding pursuant to this clause (f), including any Permitted Refinancings thereof, not to exceed the greater of (A) \$125,000,000 and (B) 20% of Consolidated EBITDA as of the end of the four fiscal quarter period for which financial statements have been delivered pursuant to Section 6.1 most recently ended prior to the date of such incurrence (or, in each case, the equivalent thereof, measured at the time of each incurrence, in the applicable foreign currency);

(g) Indebtedness of the Borrower or any of its Restricted Subsidiaries arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn by the Borrower or such Restricted Subsidiary in the ordinary course of business against insufficient funds, so long as such Indebtedness is promptly repaid;

(h) (i) Indebtedness of any Permitted Joint Venture or Non-Guarantor Subsidiary to any Loan Party and (ii) Guarantee Obligations of the Borrower or any Subsidiary Guarantor of Indebtedness for Borrowed Money of any Permitted Joint Ventures or Non-Guarantor Subsidiaries, to the extent such Indebtedness and Guaranty Obligations are permitted as Investments by Section 7.7(h);

(i) Indebtedness in the form of earn-outs, indemnification, incentive, non-compete, consulting or other similar arrangements and other contingent obligations in respect of acquisitions or Investments permitted by Section 7.7 (both before or after any liability associated therewith becomes fixed);

(j) (i) Indebtedness of the Borrower in respect of the Senior Interim Loan Agreement or the Senior Notes in an aggregate principal amount not to exceed \$1,100,000,000 plus any capitalized interest, accrued interest, fees, discounts, premiums and expenses, in each case, in respect thereof and (ii) Guarantee Obligations of any Subsidiary Guarantor in respect of such Indebtedness, interest, fees, discounts, premiums and expenses; provided, in each case, that in the case of any guarantee of Indebtedness in respect of the Senior Interim Loan Agreement by any Restricted Subsidiary that is not a Subsidiary Guarantor, such Restricted Subsidiary becomes a Subsidiary Guarantor under this Agreement at or prior to the time of such guarantee;

(k) additional Indebtedness of the Borrower or any of its Restricted Subsidiaries in an aggregate principal amount (for the Borrower and all Restricted Subsidiaries) not to exceed \$125,000,000 at any one time outstanding;

(l) [Intentionally Omitted];

(m) Indebtedness of the Borrower or any of its Restricted Subsidiaries in respect of workers' compensation claims, property casualty or liability insurance, take-or-pay obligations in supply arrangements, self-insurance obligations, performance, bid and surety bonds and completion guaranties, in each case in the ordinary course of business;

(n) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries arising from agreements providing for indemnification related to sales of goods or adjustment of purchase price or similar obligations in any case incurred in connection with the acquisition or Disposition of any business, assets or Subsidiary; provided, however, that (A) such Indebtedness is not reflected on the balance sheet of the Borrower or any Restricted Subsidiary prepared in accordance with GAAP (contingent obligations referred to in a footnote to financial statements and not otherwise reflected on the balance sheet will not be deemed to be reflected on such balance sheet for purposes of this clause) and (B) the maximum assumable liability in respect of all such Indebtedness shall at no time exceed the gross proceeds including noncash proceeds (the fair market value of such noncash proceeds being measured at the time received and without giving effect to any subsequent changes in value) actually received by the Borrower and the Restricted Subsidiaries in connection with such disposition;

(o) Indebtedness supported by a Letter of Credit, in a principal amount not in excess of the stated amount of such Letter of Credit;

(p) Indebtedness issued in lieu of cash payments of Restricted Payments permitted by Section 7.6; provided that such Indebtedness is subordinated to the Obligations on terms reasonably satisfactory to the Administrative Agent;

(q) [Intentionally Omitted];

(r) Indebtedness of the Borrower or any Subsidiary Guarantor as an account party in respect of trade letters of credit issued in the ordinary course of business;

(s) Indebtedness owing to any insurance company in connection with the financing of any insurance premiums permitted by such insurance company in the ordinary course of business;

(t) Guarantee Obligations made in the ordinary course of business; provided that such Guarantees are not of Indebtedness for Borrowed Money and such Guarantee Obligations would not otherwise in the aggregate reasonably be expected to have a Material Adverse Effect;

(u) Indebtedness (i) of any Person that becomes a Restricted Subsidiary after the Closing Date as part of an acquisition, merger or consolidation or amalgamation or other Investment not prohibited hereunder (a "New Subsidiary"), which Indebtedness exists at the time of such acquisition, merger or consolidation, amalgamation or Investments and Permitted Refinancings thereof; provided further that (A) such acquired Indebtedness exists at the time such Person becomes a Restricted Subsidiary and is not created in contemplation of or in connection with such Person becoming a Restricted Subsidiary (except to the extent such acquired

Indebtedness refinanced other Indebtedness to facilitate such Person becoming a Restricted Subsidiary) and (B) neither the Borrower nor any Restricted Subsidiary (other than the applicable New Subsidiary) shall provide any security or guarantee therefor and (ii) incurred to finance any acquisition or other Investment permitted under Section 7.7, in an aggregate amount for all such Indebtedness incurred pursuant to clauses (i) and (ii) above not to exceed \$120,000,000 at any one time outstanding

(v) [Intentionally Omitted];

(w) (i) other secured Indebtedness, so long as after giving effect to the incurrence of such secured Indebtedness (as if such Indebtedness had been incurred on the first day of the most recently completed period of four consecutive fiscal quarters of the Borrower ending on or prior to such date), the Total Senior Secured Leverage Ratio would be less than or equal to 4.00:1.00 and (ii) other Indebtedness so long as after giving effect to the incurrence of such Indebtedness (as if such Indebtedness had been incurred on the first day of the most recently completed period of four consecutive fiscal quarters of the Borrower ending on or prior to such date), the Total Leverage Ratio would be less than or equal to 5.5:1.00; provided that, in each case, (A) no Default or Event of Default shall have occurred and be continuing at the time of incurrence of such Indebtedness or would result therefrom and (B) the terms of such Indebtedness (x) do not provide for any scheduled repayment, mandatory redemption or sinking fund obligation prior to the Term Maturity Date (or such later date that is the latest final maturity date of any incremental extension of credit hereunder) and (y) provide for covenants and events of default (A) that are, taken as a whole, customary for Indebtedness of a similar nature as such Indebtedness or (B) to which the Administrative Agent has not objected, after being afforded a period of ten Business Days to review the terms of such Indebtedness;

(x) receivables or factoring arrangements in the ordinary course of business;

(y) [Intentionally Omitted];

(z) (i) Indebtedness representing deferred compensation to employees of Holdings, the Borrower or any Restricted Subsidiary incurred in the ordinary course of business and (ii) Indebtedness consisting of obligations of the Borrower or any Restricted Subsidiary under deferred compensation or other similar arrangements incurred in connection with the Acquisition Transactions and any Investment permitted hereunder;

(aa) Indebtedness of the Borrower or any Restricted Subsidiary to Holdings; provided that any repayments in respect thereto shall be deemed to be a Restricted Payment subject to compliance with the requirements of Section 7.6;

(bb) all premium (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in paragraphs (a) through (aa) above; and

(cc) Indebtedness consisting of the deferred purchase price of notes issued by Borrower or any Restricted Subsidiary to the officers, directors and employees of Holdings, Borrower or any Restricted Subsidiary, issued, in lieu of or combined with cash payments, in each case, to the extent permitted by Section 7.6(e), to purchase or redeem equity interests (or option or warrants or similar instruments) of Holdings, Borrower or any Restricted Subsidiary upon death, disability, termination of employment, termination or exercise of options by such Persons in accordance with equity plans or employment agreements.

7.3 Liens. Create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except for:

(a) Liens for taxes not yet due or which are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on the books of the Borrower or its Restricted Subsidiaries, as the case may be, to the extent required by GAAP;

(b) landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or that are being contested in good faith by appropriate proceedings;

(c) pledges, deposits or statutory trusts in connection with workers' compensation, unemployment insurance and other social security legislation;

(d) deposits and other Liens to secure the performance of bids, trade contracts (other than for borrowed money), leases, subleases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(e) easements, zoning restrictions, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business that, in the aggregate, do not materially detract from the value of the Property subject thereto or materially interfere with the ordinary conduct of the business of the Borrower or any of its Restricted Subsidiaries;

(f) Liens (i) in existence on the date hereof listed on Schedule 7.3(f) (or to the extent not listed on such Schedule 7.3(f), where the fair market value of the Property to which such Lien is attached is less than \$5,000,000), (ii) securing Indebtedness permitted by Section 7.2(d) and (iii) created after the date hereof in connection with any refinancing, refundings, or renewals or extensions thereof permitted by Section 7.2(d); provided that no such Lien is spread to cover any additional Property of the Borrower or any Restricted Subsidiary after the Closing Date and that the amount of Indebtedness secured thereby is not increased;

(g) Liens securing Indebtedness of the Borrower or any Restricted Subsidiary incurred pursuant to Section 7.2(c), 7.2(f), 7.2(h), 7.2(o), 7.2(s), 7.2(u) and 7.2(w)(i); provided that (i) in the case of any such Liens securing Indebtedness incurred pursuant to Section 7.2(c), or to the extent incurred to finance Acquisitions or Investments permitted under Section 7.7 and permitted by Section 7.2(k) or (u)(ii), (x) other than with respect to sale-leasebacks, such Liens shall be created substantially concurrently with the acquisition of the assets financed by such Indebtedness, (y) such Liens do not at any time encumber any Property of the Borrower or any Restricted Subsidiary other than the Property financed by such Indebtedness and the proceeds thereof and (z) the principal amount of Indebtedness secured thereby is not increased, (ii) in the case of any such Liens securing Indebtedness pursuant to Section 7.2(h)(i), such Liens do not at any time encumber any Property of the Borrower or any Restricted Subsidiary, (iii) in the case of any such Liens securing Indebtedness incurred pursuant to Section 7.2(s), such Liens do not encumber any Property other than cash paid to any such insurance company in respect of such insurance, (iv) in the case of any such Liens securing Indebtedness pursuant to Section 7.2(u)(i), such Liens exist at the time that the relevant Person becomes a Restricted Subsidiary and is not created in contemplation of or in connection with such Person becoming a Restricted Subsidiary and (v) in the case of any such Liens securing Indebtedness incurred pursuant to Section 7.2(c),

the aggregate principal amount of such Indebtedness so secured shall not exceed \$150,000,000 at any one time outstanding minus the aggregate amount incurred pursuant to clause (aa) below;

(h) Liens created pursuant to the Security Documents;

(i) any interest or title of a lessor under any lease entered into by the Borrower or any Restricted Subsidiary in the ordinary course of its business and covering only the assets so leased, and any financing statement filed in connection with any such lease;

(j) Liens arising from judgments in circumstances not constituting an Event of Default under Section 8(h);

(k) Liens on Property or assets in existence at the time acquired pursuant to an Investment permitted under Section 7.7(f), (i), (m) or (y) (and the proceeds thereof) and not created in connection with, or in contemplation thereof; provided that, in each case, any Indebtedness secured by such Liens is otherwise permitted by Section 7.2;

(l) [Intentionally Omitted];

(m) receipt of progress payments and advances from customers in the ordinary course of business to the extent same creates a Lien on the related inventory and proceeds thereof;

(n) Liens in favor of customs and revenue authorities arising as a matter of law to secure the payment of customs duties in connection with the importation of goods in the ordinary course of business;

(o) Liens arising out of consignment or similar arrangements for the sale by the Borrower and its Restricted Subsidiaries of goods through third parties in the ordinary course of business;

(p) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with an Investment permitted by Section 7.7;

(q) Liens deemed to exist in connection with Investments permitted by Section 7.7(b) that constitute repurchase obligations;

(r) licenses granted in the ordinary course of business to use Intellectual Property owned or developed by, or licensed to, the Borrower or any of its Restricted Subsidiaries;

(s) Liens upon specific items of inventory or other goods and proceeds of the Borrower or any of its Restricted Subsidiaries arising in the ordinary course of business securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(t) Liens on cash deposits securing any Hedge Agreement permitted hereunder;

(u) Any interest or title of a lessor under any lease or subleases entered into by the Borrower or any Restricted Subsidiary in the ordinary course of business;

(v) Liens on cash or cash equivalents used to defease or to satisfy and discharge Indebtedness, provided that such defeasance or satisfaction and discharge is not prohibited hereunder;

(w) [Intentionally Omitted];

(x) (i) Liens that are contractual rights of set-off (A) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (B) relating to pooled deposit or sweep accounts of the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrowers and the Subsidiaries or (C) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business and (ii) other Liens securing cash management obligations (that do not constitute Indebtedness) in the ordinary course of business;

(y) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights;

(z) Liens securing obligations in respect of trade-related letters of credit permitted under Section 7.2 and covering the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof;

(aa) other Liens with respect to obligations of the Borrower or any Restricted Subsidiary, including Indebtedness incurred pursuant to Section 7.2(k), that do not exceed (A) \$50,000,000 minus (B) any aggregate amount applied to pursuant 7.3(g)(b) in excess of \$100,000,000, at any one time outstanding;

(bb) Liens on securities that are the subject of customary repurchase agreements constituting Cash Equivalents or Foreign Cash Equivalents; and

(cc) Liens to secure the Indebtedness of the Borrower and its Subsidiaries that is permitted to be incurred under Section 7.2(x) or to perfect the sale of receivables of the Borrower and its Restricted Subsidiaries that are subject to the related factoring programs.

7.4 Fundamental Changes. Consummate any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all of its Property or business, except that:

(a) (i) any Restricted Subsidiary may be merged, amalgamated or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving corporation) or (ii) any Restricted Subsidiary may be merged, amalgamated or consolidated with or into any Subsidiary Guarantor (provided that (x) a Subsidiary Guarantor shall be the continuing or surviving corporation or (y) simultaneously with such transaction, the continuing or surviving corporation shall become a Subsidiary Guarantor and the Borrower shall comply with Section 6.8 in connection therewith);

(b) any Non-Guarantor Subsidiary that is a Foreign Subsidiary may be merged or consolidated with or into, or be liquidated into, any other Non-Guarantor Subsidiary that is a Restricted Subsidiary, and any Non-Guarantor Subsidiary that is a Domestic Subsidiary may be merged or consolidated with or into, or be liquidated into, any other Non-Guarantor Subsidiary that is a Domestic Subsidiary;

(c) any Restricted Subsidiary may Dispose of all or substantially all of its assets upon voluntary liquidation or otherwise to the Borrower or any Subsidiary Guarantor; provided that any such Dispositions by any Non-Guarantor Subsidiary to the Borrower or any Subsidiary Guarantor shall be for consideration not exceeding the fair market value of such assets or, to the extent such consideration exceeds the fair market value, the Excess Amount is permitted by Section 7.7(y);

(d) any Non-Guarantor Subsidiary that is a Foreign Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution, winding-up or otherwise) to any other Non-Guarantor Subsidiary that is a Restricted Subsidiary, and any Non-Guarantor Subsidiary that is a Domestic Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation dissolution, winding-up or otherwise) to any other Non-Guarantor Subsidiary that is a Domestic Subsidiary;

(e) Dispositions permitted by Section 7.5 may be consummated;

(f) any Investment expressly permitted by Section 7.7 may be structured as a merger, consolidation or amalgamation; and

(g) the transactions contemplated under the Transaction Documents may be consummated.

7.5 Dispositions of Property. Dispose of any of its owned Property (including, without limitation, receivables) whether now owned or hereafter acquired, or, in the case of any Restricted Subsidiary, issue or sell any shares of such Restricted Subsidiary's Capital Stock to any Person, except:

(a) (i) the Disposition of surplus, obsolete or worn out property in the ordinary course of business, (ii) the sale of defaulted receivables in the ordinary course of business, (iii) abandonment, cancellation or disposition of any intellectual property in the ordinary course of business and (iv) sales, leases or other dispositions of inventory determined in the ordinary course of business by the management of the Borrower to be no longer useful or necessary in the operation of the Business;

(b) (i) the sale of inventory in the ordinary course of business, (ii) the cross-licensing or licensing of Intellectual Property, in the ordinary course of business and (iii) the contemporaneous exchange, in the ordinary course of business, of Property for Property of a like kind (other than as set forth in clause (ii)), to the extent that the Property received in such exchange is of a value equivalent to the value of the Property exchanged (provided that after giving effect to such exchange, the value of the Property of the Borrower or any Subsidiary Guarantor subject to Liens in favor of the Collateral Agent under the Security Documents is not materially reduced);

(c) Dispositions permitted by Section 7.4;

(d) the sale or issuance of (i) any Subsidiary's Capital Stock to the Borrower or any Subsidiary Guarantor; provided that the sale or issuance of Capital Stock of an Unrestricted Subsidiary to the Borrower or any Restricted Subsidiary is otherwise permitted by Section 7.7, (ii) the Capital Stock of any Foreign Subsidiary that is a Restricted Subsidiary to any other Foreign Subsidiary that is a Restricted Subsidiary and (iii) the Capital Stock of any Subsidiary that is an Unrestricted Subsidiary to any other Subsidiary that is an Unrestricted Subsidiary;

(e) the Disposition of other assets for fair market value; provided that (i) at least 75% of the consideration received by the Borrower or the applicable Restricted Subsidiary is in the form of cash or Cash Equivalents and (ii) the requirements of Section 2.12(b), to the extent applicable, are complied with in connection therewith;

(f) Dispositions in connection with a Permitted Asset Swap; provided, that any cash or Cash Equivalents received must be applied in accordance with Section 2.12(b);

(g) the leasing, occupancy agreements or sub-leasing of Property that would not materially interfere with the required use of such Property by the Borrower or its Restricted Subsidiaries;

(h) non-consensual Dispositions in connection with a Recovery Event; provided that the requirements of Section 2.12(b), to the extent applicable, with respect to such Recovery Event are complied with;

(i) the sale or discount, in each case without recourse and in the ordinary course of business, of overdue accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof consistent with customary industry practice (and not as part of any bulk sale or financing of receivables);

(j) the Disposition of Property (i) by the Borrower or any Subsidiary Guarantor to the Borrower or any other Subsidiary Guarantor, (ii) from a Non-Guarantor Subsidiary to (A) the Borrower or any Subsidiary Guarantor provided that any consideration received by any such Non-Guarantor Subsidiary is not in excess of fair market value or, to the extent such consideration exceeds fair market value, the Excess Amount is permitted by Section 7.7(y) or (B) any other Non-Guarantor Subsidiary that is a Restricted Subsidiary or (iii) by the Borrower or any Subsidiary Guarantor to a Non-Guarantor Subsidiary provided that any such transfers shall not be for consideration equal to less than the fair market value for such Properties, or if such consideration is for less than fair market value (such difference, the "Differential Amount") such Differential Amount is permitted by Section 7.7(y); provided, further, that any sale or issuance of Capital Stock of an Unrestricted Subsidiary to the Borrower or a Subsidiary Guarantor is otherwise permitted by Section 7.7;

(k) the sale of Cash Equivalents and Foreign Cash Equivalents in the ordinary course of business;

(l) the factoring of receivables in the ordinary course of business;

(m) Dispositions of Investments in Permitted Joint Ventures to the extent required by, or made pursuant to customary buy/sell arrangements between the Permitted Joint Venture parties set forth in joint venture arrangements or similar binding agreements; provided that the requirements of Section 2.12(b), to the extent applicable, are complied with in connection therewith;

(n) the transfer for fair value of Property (including Capital Stock of Subsidiaries) to another Person in connection with a joint venture arrangement with respect to the transferred Property; provided that such transfer is permitted under Section 7.7(h); and

(o) (i) Liens permitted by Section 7.3, (ii) Restricted Payments permitted by Section 7.6, (iii) Investments permitted by Section 7.7 and (iv) payments in Cash and Cash Equivalents permitted by Section 7.8.

7.6 Restricted Payments. Declare or pay any dividend on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of the Borrower or any Subsidiary, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of the Borrower or any Restricted Subsidiary, or enter into any derivatives or other transaction with any financial institution, commodities or stock exchange or clearinghouse (a "Derivatives Counterparty") obligating the Borrower or any Restricted Subsidiary to make payments to such Derivatives Counterparty as a result of any change in market value of any such Capital Stock (collectively, "Restricted Payments"), except that:

(a) (i) any Restricted Subsidiary may make Restricted Payments to the Borrower or any Subsidiary Guarantor, (ii) Non-Guarantor Subsidiaries that are Domestic Subsidiaries may make Restricted Payments to other Non-Guarantor Subsidiaries that are Domestic Subsidiaries that are Restricted Subsidiaries and (iii) Non-Guarantor Subsidiaries that are Foreign Subsidiaries may make Restricted Payments to other Non-Guarantor Subsidiaries that are Restricted Subsidiaries;

(b) provided that (i) no Default or Event of Default is continuing or would result therefrom and (ii) the Total Senior Secured Leverage Ratio for the most recently ended period of four consecutive fiscal quarters of the Borrower shall not exceed 4.00:1.00 for such period immediately before and on a pro forma basis immediately after giving effect to such Restricted Payment, the Borrower may (x) make Restricted Payments in an aggregate amount not to exceed an amount equal to the Available Amount and (y) make Restricted Payments in an aggregate amount not to exceed the greater of (A) \$100,000,000 and (B) 1.75% of Consolidated Total Assets as of the end of the four fiscal quarter period most recently ended immediately prior to the date of such Restricted Payment for which financial statements have been delivered pursuant to Section 6.1;

(c) the Borrower may make Restricted Payments to Holdings, to permit Holdings to pay (i) any taxes which are due and payable by Holdings or such Parent Company, the Borrower and the Restricted Subsidiaries as part of a consolidated group (or shareholders of Holdings, to the extent such taxes are attributable to Holdings, the Borrower and the Restricted Subsidiaries, but not greater than the amount that would be payable by the Borrower, on a consolidated basis, if the Borrower were the taxpayer), (ii) customary fees, salary, bonus, severance and other benefits payable to, and indemnities provided on behalf of, their current and former officers and employees and members of their board of directors, (iii) ordinary course corporate operating expenses and other fees and expenses required to maintain its corporate existence, (iv) fees and expenses to the extent permitted under clause (i) of the second sentence of Section 7.9 and (v) reasonable fees and expenses incurred in connection with any unsuccessful debt or equity offering by Holdings or such Parent Company to the extent that the proceeds thereof were intended to be used for the benefit of the Borrower and its Restricted Subsidiaries;

(d) the Borrower may make Restricted Payments in the form of common stock of the Borrower;

(e) the Borrower or any Subsidiary may make Restricted Payments to, directly or indirectly, purchase its Capital Stock from present or former officers, directors, consultants,

agents or employees (or their estates, family members or former spouses) of Holdings, the Borrower or any Subsidiary upon the death, disability, retirement or termination of the applicable officer, director, consultant, agent or employee or pursuant to any equity subscription agreement, stock option or equity incentive award agreement, shareholders' or members' agreement or similar agreement, plan or arrangement; provided that the aggregate amount of payments under this clause (e) in any fiscal year of the Borrower shall not exceed the sum of (i) \$20,000,000 (which shall increase to \$30,000,000 subsequent to the consummation of a Holdings IPO) plus (ii) any proceeds received from key man life insurance policies, plus (iii) the amount of any bona fide cash bonuses otherwise payable to members of management, directors or consultants of Holdings, any Parent Company, the Borrower or its Restricted Subsidiaries in connection with the Transactions that are foregone in return for the receipt of Capital Stock the fair market value of which is equal to or less than the amount of such cash bonuses; provided that any Restricted Payments permitted (but not made) pursuant to this clause (e) in the any prior fiscal year may be carried forward to any subsequent calendar year, subject to a maximum of \$40,000,000 million in any calendar year (which shall increase to \$60,000,000 subsequent to the consummation of a Holdings IPO); and provided, further, that cancellation of Indebtedness owing to the Borrower or any Restricted Subsidiary by any member of management of Holdings, the Borrower or its Restricted Subsidiaries in connection with a repurchase of the Capital Stock of Holdings, the Borrower or its Restricted Subsidiaries will not be deemed to constitute a Restricted Payment for purposes of this Section 7.6;

(f) the Borrower and its Restricted Subsidiaries may make noncash repurchases of Capital Stock deemed to occur upon exercise of stock options or similar equity incentive awards if such Capital Stock represent a portion of the exercise price of such options or similar equity incentive awards;

(g) the Borrower and its Restricted Subsidiaries may make Restricted Payments to consummate the Transactions (including, any Restricted Payments contemplated by the Acquisition Agreement);

(h) the Borrower may make Restricted Payments to allow Holdings or any Parent Company to make payments in cash, in lieu of the issuance of fractional shares, upon the exercise of warrants or upon the conversion or exchange of Capital Stock of any such Person;

(i) provided that no Default or Event of Default is continuing or would result therefrom, after a Holdings IPO, the Borrower may make Restricted Payments to Holdings so that Holdings may make Restricted Payments to its equity holders in an aggregate amount not exceeding 6.0% per annum of the Net Cash Proceeds received by the Borrower from any Equity Issuance in connection with a public offering of Capital Stock of Holdings; provided that the Available Amount shall be reduced by a corresponding amount of any such Restricted Payments;

(j) payments to the Sponsors and any of their Affiliates (a) pursuant to the Services Agreement or (b) for any other financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or divestitures, which payments, in the case of this clause (b), are approved by a majority of the disinterested members of the Board of Directors of the Borrower in good faith; and

(k) to the extent constituting Restricted Payments, the Borrower and its Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Sections 7.4, 7.5, 7.7 and 7.9;

7.7 Investments. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or all or substantially all of the assets constituting an ongoing business from, or make any other investment in, any other Person (all of the foregoing, "Investments"), except:

(a) (i) extensions of trade credit in the ordinary course of business and (ii) 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, to the extent such purchases and acquisitions constitute Investments;

(b) Investments in Cash Equivalents and Foreign Cash Equivalents and Investments that were Cash Equivalents or Foreign Cash Equivalents when made;

(c) (i) Investments arising in connection with the incurrence of Indebtedness permitted by Sections 7.2 to the extent arising as a result of Indebtedness among Holdings, the Borrower or any Restricted Subsidiary and Guarantee Obligations permitted by Section 7.2 and payments made in respect of such Guarantee Obligations, (ii) the forgiveness or conversion to equity of any Indebtedness permitted by Section 7.2(b) or 7.2(h) and (iii) Guarantees by any Borrower or any Restricted Subsidiary of operating leases (other than Capital Lease Obligations) or of other obligations of any Subsidiary that do not constitute Indebtedness, in each case entered into in the ordinary course of business;

(d) loans and advances to employees, consultants, officers, or directors of Holdings, the Borrower or any of its Restricted Subsidiaries in the ordinary course of business in an aggregate amount (for Holdings, the Borrower and all Restricted Subsidiaries) not to exceed \$15,000,000 (excluding (for purposes of such cap) travel and entertainment expenses, but including relocation expenses) at any one time outstanding;

(e) Investments (other than those relating to the incurrence of Indebtedness permitted by Section 7.7(c)) by the Borrower or any of its Restricted Subsidiaries in the Borrower or any Person that, prior to such Investment, is a Subsidiary Guarantor or is a Domestic Subsidiary that becomes a Subsidiary Guarantor at the time of such Investment in accordance with Section 6.8;

(f) (i) Permitted Acquisitions to the extent that any Person or Property acquired in such acquisition becomes a Subsidiary Guarantor or a part of the Borrower or any Subsidiary Guarantor or becomes (whether or not such Person is a wholly owned Subsidiary) a Subsidiary Guarantor in the manner contemplated by Section 6.8(c) and (ii) other Permitted Acquisitions in an aggregate purchase price (other than purchase price paid through the issuance of equity by Holdings with the proceeds thereof, including (x) whether or not any equity is issued, capital contributions (other than relating to Disqualified Capital Stock) and (y) equity issued to the seller) in an aggregate amount not to exceed, together with the aggregate amount of all Investments made pursuant to Section 7.7(h) (including Indebtedness incurred pursuant to Section 7.2(h)), the sum of (A) \$200,000,000 plus (B) an amount equal to the Available Amount;

(g) loans by the Borrower and its Restricted Subsidiaries to the employees, officers or directors of Holdings, the Borrower or any of its Restricted Subsidiaries in connection with management incentive plans; provided that such loans represent cashless transactions pursuant to which such employees, officers or directors directly invest the proceeds of such loans in the Capital Stock of Holdings;

(h) Investments by the Borrower and its Restricted Subsidiaries in Permitted Joint Ventures and by the Borrower or any Subsidiary Guarantor in any Non-Guarantor Subsidiary in an aggregate amount (for the Borrower and all Restricted Subsidiaries) not to exceed, together with the aggregate amount of all Investments made pursuant to Section 7.7(h) (including Indebtedness incurred pursuant to Section 7.2(h)), the sum of (A) \$200,000,000 plus (B) an amount equal to the Available Amount; provided, however, that any Investment made for purposes of funding an Acquisition permitted under Section 7.7(f)(ii) shall not be deemed to be an Investment for the purposes of this Section 7.7(h);

(i) Investments (including debt obligations) received in the ordinary course of business by the Borrower or any Restricted Subsidiary in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising out of the ordinary course of business;

(j) Investments (i) by any Non-Guarantor Subsidiary that is a Domestic Subsidiary in any other Non-Guarantor Subsidiary that is a Domestic Subsidiary and (ii) by any Non-Guarantor Subsidiary that is a Foreign Subsidiary in any other Non-Guarantor Subsidiary that is a Restricted Subsidiary;

(k) Investments in existence on the Closing Date and listed on Schedule 7.7;

(l) Investments of the Borrower or any Restricted Subsidiary under Hedge Agreements permitted hereunder;

(m) Investments of any Person in existence at the time such Person becomes a Restricted Subsidiary; provided that such Investment was not made in connection with or anticipation of such Person becoming a Restricted Subsidiary;

(n) Investments arising as a result of payments permitted by Section 7.8(a);

(o) Investments arising as a result of consummation of the Acquisition Transactions pursuant to the terms of the Acquisition Agreement;

(p) Subsidiaries of the Borrower may be established or created, if (i) to the extent such new Subsidiary is a Domestic Subsidiary, the Borrower and such Subsidiary comply with the provisions of Section 6.8(c) and (ii) to the extent such new Subsidiary is a Foreign Subsidiary, the Borrower complies with the provisions of Section 6.8(d) and 6.8(e); provided that, in each case, to the extent such new Subsidiary is created solely for the purpose of consummating a merger transaction pursuant to an acquisition permitted by this Section 7.7, and such new Subsidiary at no time holds any assets or liabilities other than any merger consideration contributed to it contemporaneously with the closing of such merger transactions, such new Subsidiary shall not be required to take the actions set forth in Section 6.8(c) or 6.8(d), as applicable, until the respective acquisition is consummated (at which time the surviving entity of the respective merger transaction shall be required to so comply within ten Business Days or such longer period as the Administrative Agent shall agree);

(q) Investments arising directly out of the receipt by the Borrower or any Restricted Subsidiary of non-cash consideration for any sale of assets permitted under Section 7.5; provided that such non-cash consideration shall in no event exceed 25% of the total consideration received for such sale;

- (r) Investments resulting from pledges and deposits referred to in Sections 7.3(c) and (d);
- (s) Investments consisting of the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other persons;
- (t) any Investment in a Foreign Subsidiary to the extent such Investment is substantially contemporaneously repaid in full with a dividend or other distribution from such Foreign Subsidiary;
- (u) advances of payroll payments to employees, or fee payments to directors or consultants, in the ordinary course of business;
- (v) Investments consisting of Loans by the Borrower to Holdings in lieu of cash payments of Restricted Payments permitted by Section 7.6;
- (w) Investments in the ordinary course of business consisting of UCC Article 3 endorsements for collection or deposit and UCC Article 4 customary trade arrangements with customers consistent with past practices;
- (x) [Intentionally Omitted]; and
- (y) so long as no Event of Default shall have occurred and be continuing at the time of the Investment or would result therefrom, additional Investments so long as the aggregate amount thereof outstanding, together with the aggregate amount of all Excess Amounts pursuant to Section 7.4(c) and Section 7.4(j)(ii)(A) and Differential Amounts pursuant to Section 7.5(j), at no time exceeds the sum of (A) \$100,000,000 plus (B) an amount equal to the Available Amount.

It is further understood and agreed that for purposes of determining the value of any Investment outstanding for purposes of this Section 7.7, such amount shall deemed to be the amount of such Investment when made, purchased or acquired less any returns on such Investment (not to exceed the original amount invested).

7.8 Optional Payments and Modifications of Certain Debt Instruments. (a) Make or offer to make any optional or voluntary payment, prepayment, repurchase or redemption of, or otherwise voluntarily or optionally defease any Senior Interim Facility Indebtedness or Senior Notes then outstanding; provided that (A) the Borrower or any Restricted Subsidiary may prepay any Senior Interim Facility Indebtedness (or any Permitted Refinancings) with amounts constituting the Available Amount, (B) the Borrower or any Restricted Subsidiary may refinance, replace or extend any Senior Interim Facility Indebtedness or Senior Notes to the extent permitted by Section 7.2, (C) the Borrower may make any Conditional Offer and (D) the Borrower may elect to pay interest in cash on the Senior Interim Facility Indebtedness or the Senior Notes in accordance with the terms thereof.

(b) Amend, modify or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of any Senior Interim Loan Document, any Senior Notes or any Senior Notes Indenture in any manner that is materially adverse to the Lenders without the prior consent of the Administrative Agent (with the approval of the Required Lenders); provided that nothing in this Section 7.8(b) shall prohibit the refinancing, replacement, extension or other similar modification of the Senior Interim Facility Indebtedness to the extent otherwise permitted by Section 7.2.

7.9 Transactions with Affiliates. Enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than the Borrower or any Restricted Subsidiary) unless such transaction is (a) otherwise not prohibited under this Agreement and (b) upon fair and reasonable terms no less favorable to the Borrower or such Restricted Subsidiary, as the case may be, than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate. Notwithstanding the foregoing, the Borrower and its Restricted Subsidiaries may (i) pay to the Sponsors and their Affiliates fees, indemnities and expenses pursuant to the Services Agreement and/or fees and expenses in connection with the Acquisition and disclosed to the Administrative Agent prior to the Closing Date; (ii) enter into any transaction with an Affiliate that is expressly permitted by the terms of this Agreement to be entered into by the Borrower or such Restricted Subsidiary with an Affiliate; (iii) make any Restricted Payments contemplated by the Acquisition Agreement; and (iv) without being subject to the terms of this Section 7.9, enter into any transaction with any Person which is an Affiliate of Holdings only by reason of such Person and Holdings having common directors. For the avoidance of doubt, this Section 7.9 shall not apply to employment, bonus, retention and severance arrangements with, and payments of compensation or benefits to or for the benefit of, current or former employees, consultants, officers or directors of the Borrower or any of its Restricted Subsidiaries in the ordinary course of business.

7.10 [Intentionally Omitted].

7.11 Changes in Fiscal Periods. Permit the fiscal year of the Borrower to end on a day other than December 31.

7.12 Negative Pledge Clauses. Enter into any agreement that prohibits or limits the ability of the Borrower or any of its Restricted Subsidiaries to create, incur, assume or suffer to exist any Lien upon any of its Property or revenues, whether now owned or hereafter acquired, to secure the Obligations or, in the case of any Subsidiary Guarantor, its obligations under the Guarantee and Collateral Agreement, other than:

- (a) this Agreement and the other Loan Documents;
- (b) the Senior Interim Loan Documents and any Senior Notes Indenture;
- (c) any agreements governing any purchase money Liens or Capital Lease Obligations otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby and the proceeds thereof);
- (d) software and other Intellectual Property licenses in the ordinary course of business pursuant to which the Borrower or such Restricted Subsidiary is the licensee of the relevant software or Intellectual Property, as the case may be, (in which case, any prohibition or limitation shall relate only to the assets subject of the applicable license);
- (e) Contractual Obligations incurred in the ordinary course of business and on customary terms which limit Liens on the assets subject of the applicable Contractual Obligation;
- (f) any agreements regarding Indebtedness of any Non-Guarantor Subsidiary not prohibited under Section 7.2 (in which case, any prohibition or limitation shall only be effective against the assets of such Non-Guarantor Subsidiary and its Subsidiaries);

(g) prohibitions and limitations in effect on the date hereof and listed on Schedule 7.12;

(h) customary provisions limiting the disposition or distribution of assets or property contained in joint venture agreements and other similar agreements applicable to Joint Ventures, which limitation is applicable only to the assets that are the subject of such agreements;

(i) customary provisions in agreements entered into in the ordinary course restricting the subletting or assignment of any lease governing a leasehold interest;

(j) customary restrictions and conditions contained in any agreement relating to an asset sale permitted by Section 7.4 or 7.5;

(k) any agreement in effect at the time any Person becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person (or Persons), other than the Person, or the property or assets of the Person (or Persons), so acquired; provided that, in the case of Indebtedness, such Indebtedness was permitted hereby;

(l) restrictions imposed by applicable law;

(m) [Intentionally Omitted];

(n) restrictions in respect of Indebtedness secured by Liens permitted by Sections 7.3(g), 7.3(k) and 7.3(aa) relating solely to the assets or proceeds thereof secured by such Indebtedness to the extent required to be so limited by such Sections; and

(o) customary provisions restricting assignment of any agreement entered into in the ordinary course of business.

7.13 Clauses Restricting Subsidiary Distributions. Enter into any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (a) make Restricted Payments in respect of any Capital Stock of such Restricted Subsidiary held by, or pay any Indebtedness owed to, the Borrower or any Restricted Subsidiary or (b) make Investments in the Borrower or any Restricted Subsidiary, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to such Restricted Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Capital Stock or assets of such Restricted Subsidiary, (iii) customary net worth provisions contained in real Property leases entered into by the Borrower and its Restricted Subsidiaries, so long as the Borrower has determined in good faith that such net worth provisions would not reasonably be expected to impair the ability of the Borrower and its Restricted Subsidiaries to meet their ongoing obligations, (iv) any restrictions contained in agreements related to Indebtedness of any Non-Guarantor Subsidiary not prohibited under Section 7.2 (in which case such restriction shall relate only to such Non-Guarantor Subsidiary and its Restricted Subsidiaries) or Indebtedness secured by Liens permitted by Sections 7.3(g) and 7.3(aa), (v) customary restrictions regarding licenses or sublicenses by the Borrower and its Restricted Subsidiaries of Intellectual Property in the ordinary course of business (in which case such restriction shall relate only to such Intellectual Property), (vi) Contractual Obligations incurred in the ordinary course of business which include customary provisions restricting the assignment of any agreement relating thereto, (vii) customary provisions limiting the disposition or distribution of assets or property contained in joint venture agreements and other similar agreements applicable to Joint Ventures,

which limitation is applicable only to the assets that are the subject of such agreements, (viii) customary provisions in agreements entered into in the ordinary course restricting the subletting or assignment of any lease governing a leasehold interest, (ix) customary restrictions and conditions contained in any agreement relating to an asset sale permitted by Section 7.4 or 7.5, (x) any agreement in effect at the time any Person becomes a Restricted Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Restricted Subsidiary, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; provided that, in the case of Indebtedness, such Indebtedness was permitted hereby, and (xi) restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business.

7.14 Lines of Business. Enter into any business, either directly or through any of its Restricted Subsidiaries, except for the Business or a business reasonably related thereto or that are reasonable extensions thereof.

7.15 Limitation on Hedge Agreements. Enter into any Hedge Agreement other than Hedge Agreements entered into in the ordinary course of business, and not for speculative purposes.

7.16 Changes in Jurisdictions of Organization; Name. Other than pursuant to the Transactions, in the case of any Loan Party, change its name or change its jurisdiction of organization, in either case except upon prompt written notice to the Collateral Agent and delivery to the Collateral Agent, of all additional executed financing statements, financing change statements and other documents reasonably requested by the Collateral Agent to maintain the validity, perfection and priority of the security interests provided for in the Security Documents.

7.17 Limitation on Activities of Holdings and Foreign Holdings. In the case of Holdings and Foreign Holdings only, notwithstanding anything to the contrary in this Agreement or any other Loan Document, neither Holdings nor Foreign Holdings shall, so long as the Commitments remain in effect, any Letter of Credit remains outstanding (that has not been (i) cash collateralized or (ii) backstopped on terms reasonably acceptable to the applicable Issuing Bank) or any Loan or other amount is owing to any Lender or any Agent hereunder (other than contingent or indemnification obligations not then due):

(a) conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any business or operations other than (i) those incidental to the ownership of the Capital Stock of, in the case of Holdings, the Borrower and the Subsidiaries of the Borrower and those incidental to Investments by or in Holdings not prohibited hereunder and, in the case of Foreign Holdings, Subsidiaries of such Subsidiaries and those Investments incidental thereto, (ii) activities incidental to the maintenance of its existence and compliance with applicable laws and legal, tax and accounting matters related thereto and activities relating to Holdings' or Foreign Holdings' respective employees, (iii) activities relating to the performance of obligations under the Loan Documents to which Holdings or Foreign Holdings is a party or expressly permitted thereunder, (iv) the making of Restricted Payments to the extent of Restricted Payments permitted to be made to Holdings pursuant to Section 7.6, (v) the receipt and payment of Restricted Payments permitted under Section 7.6, (vi) those related to the Transactions, (vii) in the case of Holdings, other financing activities, (viii) activities in connection with or in preparation for a Holdings IPO, (ix) in the case of Holdings, to the extent that Section 7 expressly permits the Borrower or a Restricted Subsidiary to enter into a transaction with Holdings and (x) in the case of Foreign Holdings, to the extent that Section 7 does not prohibit the Borrower or a Restricted Subsidiary from entering into a transaction with a Restricted Subsidiary or Non-Guarantor Subsidiary, as applicable.

(b) permit any Liens on the Capital Stock of the Borrower other than Liens in favor of the Lenders and non-consensual Liens arising by operation of law.

#### SECTION 8. EVENTS OF DEFAULT

If any of the following events shall occur and be continuing:

(a) The Borrower shall fail to pay (i) any principal of any Loan when due in accordance with the terms hereof, (ii) any principal of any Reimbursement Obligation within three Business Days after any such Reimbursement Obligation becomes due in accordance with the terms hereof or (iii) any interest owed by it on any Loan or Reimbursement Obligation, or any other amount payable by it hereunder or under any other Loan Document, within five Business Days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) (i) On the Closing Date, any Specified Representation, and (ii) at any time after the Closing Date, any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document, shall in either case prove to have been inaccurate in any material respect on or as of the date made or deemed made or furnished; or

(c) Any Loan Party shall default in the observance or performance of any agreement contained in Section 6.7(a) or Section 7; or

(d) Any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section), and such default shall continue unremedied for a period of 30 days after such Loan Party receives from the Administrative Agent or any Lender notice of the existence of such default; or

(e) The Borrower or any of its Restricted Subsidiaries shall (i) default in making any payment of any principal of any Indebtedness for Borrowed Money (excluding the Loans and Reimbursement Obligations) on the scheduled or original due date with respect thereto; or (ii) default in making any payment of any interest on any such Indebtedness for Borrowed Money beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness for Borrowed Money was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness for Borrowed Money or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event of default shall occur, the effect of which payment or other default or other event of default is to cause, or to permit the holder or beneficiary of such Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness for Borrowed Money to become due prior to its stated maturity or to become subject to a mandatory offer to purchase by the obligor thereunder or to become payable; provided that (A) a default, event or condition described in this paragraph shall not at any time constitute an Event of Default unless, at such time, one or more defaults or events of default of the type described in this paragraph shall have occurred and be continuing with respect to Indebtedness for Borrowed Money the outstanding principal amount of which individually or in the aggregate exceeds \$50,000,000 and (B) this paragraph (e) shall not apply to (i) secured Indebtedness that becomes due solely as a result of the sale, transfer, destruction or other disposition of the Property or assets securing such Indebtedness for Borrowed Money if (A) such sale, transfer, destruction or other disposition is not prohibited hereunder and under the documents governing such

Indebtedness and (B) such Indebtedness does not remain outstanding for more than 30 days after such Indebtedness becomes due or (ii) any Guarantee Obligations except to the extent such Guarantee Obligations shall become due and payable by any Loan Party and remain unpaid after any applicable grace period or period permitted following demand for the payment thereof; or

(f) (i) Any Loan Party or any Material Subsidiary that is not a Loan Party (other than an Unrestricted Subsidiary) shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) any case, proceeding or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 60 days; or (iii) there shall be commenced against Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against substantially all of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall consent to or approve of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) (i) Any Loan Party or any Material Subsidiary that is not a Loan Party (other than an Unrestricted Subsidiary) shall incur any liability in connection with any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any "accumulated funding deficiency" (as defined in Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan or any Lien in favor of the PBGC or a Plan shall arise on the assets of any Loan Party or any Material Subsidiary that is not a Loan Party (other than an Unrestricted Subsidiary), (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is reasonably likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iv) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) any Loan Party or any Material Subsidiary that is not a Loan Party (other than an Unrestricted Subsidiary) shall, or is reasonably likely to, incur any liability as a result of a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan or (vi) any other event or condition (other than one which could not reasonably be expected to result in a violation of any applicable law or of the qualification requirements of the Code) shall occur or exist with respect to a Plan or a Commonly Controlled Plan; and in each case in clauses (i) through (vi) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to result in a direct obligation of any Loan Party or any Material Subsidiary that is not a Loan Party (other than an Unrestricted Subsidiary) to pay money that could have a Material Adverse Effect; or

(h) One or more judgments or decrees shall be entered against any Loan Party or any Material Subsidiary that is not a Loan Party (other than an Unrestricted Subsidiary) involving liabilities of any such Loan Party or Material Subsidiary (other than an Unrestricted Subsidiary that is not a Loan Party) (not paid or fully covered by insurance or effective indemnity) of \$50,000,000 (net of any amounts which are covered by insurance or an effective indemnity) or more, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 30 days from the entry thereof; or

(i) (i) Any of the Security Documents shall cease, for any reason (other than by reason of the express release thereof pursuant to Section 10.15) to be in full force and effect or shall be asserted in writing by the Borrower or any Subsidiary not to be a legal, valid and binding obligation of any party thereto, (ii) any security interest purported to be created by any Security Document and to extend to Collateral that is not immaterial to the Borrower and its Subsidiaries on a consolidated basis shall cease to be, or shall be asserted in writing by any Loan Party not to be, a valid and perfected security interest (having the priority required by this Agreement or the relevant Security Document) in the securities, assets or properties covered thereby, except to the extent that (x) any such loss of perfection or priority results from limitations of foreign laws, rules and regulations as they apply to pledges of Capital Stock in Foreign Subsidiaries or the application thereof, or from the failure of the Administrative Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Guarantee and Collateral Agreement or to file UCC continuation statements, (y) such loss is covered by a lender's title insurance policy and the Administrative Agent shall be reasonably satisfied with the credit of such insurer or (z) any such loss of validity, perfection or priority is the result of any failure by the Administrative Agent to take any action necessary to secure the validity, perfection or priority of the liens, other than as a result of any act or omission by any Loan Party or (iii) the Guarantees pursuant to the Security Documents by any Loan Party of any of the Obligations shall cease to be in full force and effect (other than in accordance with the terms thereof), or shall be asserted in writing by any Loan Party not to be in effect or not to be legal, valid and binding obligations; or

(j) (i) Holdings shall cease to own, directly or indirectly, 100% of the Capital Stock of the Borrower; or (ii) if neither Holdings' Capital Stock nor the Capital Stock of any Parent Company that owns 100% of the Capital Stock of Holdings is traded on a nationally-recognized stock exchange, the Sponsors shall cease to own, directly or indirectly, at least 50.1% of the Capital Stock of Holdings; or (iii) if Holdings' or any Parent Company's Capital Stock is traded on a nationally-recognized stock exchange, the Sponsors shall cease to own, directly or indirectly, at least 30% of the Capital Stock of Holdings and any other shareholder shall own a greater percentage than the Sponsors; or (iv) a majority of the Board of Directors of Holdings or (if such Parent Company's Capital Stock is traded on a nationally-recognized stock exchange) such Parent Company shall not be Continuing Directors (any of the foregoing, a "Change of Control");

then, and in any such event, (A) if such event is an Event of Default specified in clause (i) or (ii) of paragraph (f) above with respect to the Borrower, automatically the Commitments shall immediately terminate and the Loans hereunder (with accrued interest thereon) and all other Obligations owing under this Agreement and the other Loan Documents shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: (i) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower declare the Revolving Commitments to be terminated forthwith, whereupon the Revolving Commitments shall immediately terminate; and (ii) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Loans hereunder

(with accrued interest thereon) and all other Obligations owing under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable. In the case of all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to this paragraph, the Borrower shall at such time deposit in a cash collateral account opened by the Administrative Agent an amount equal to the aggregate then undrawn and unexpired amount of such Letters of Credit. Amounts held in such cash collateral account shall be applied by the Administrative Agent to the payment of drafts drawn under such Letters of Credit, and the unused portion thereof after all such Letters of Credit shall have expired or been backstopped or been fully drawn upon, if any, shall be applied to repay other obligations of the Borrower hereunder and under the other Loan Documents. After all such Letters of Credit shall have expired or been fully drawn upon, all Reimbursement Obligations shall have been satisfied and all other obligations of the Borrower then due and owing hereunder and under the other Loan Documents shall have been paid in full, the balance, if any, in such cash collateral account shall be returned to the Borrower (or such other Person as may be lawfully entitled thereto). Except as expressly provided above in this Section or otherwise in any Loan Document, presentment, demand and protest of any kind are hereby expressly waived by the Borrower.

#### SECTION 9. THE AGENTS

9.1 Authorization and Action. (a) Each Lender and each Issuing Lender hereby appoints Citicorp North America, Inc. as the Administrative Agent and the Collateral Agent hereunder and each Lender and each Issuing Lender authorizes the Administrative Agent and the Collateral Agent to take such action as agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent and the Collateral Agent under such agreements and to exercise such powers as are reasonably incidental thereto. Without limiting the foregoing, each Lender and each Issuing Lender hereby authorizes the Administrative Agent and the Collateral Agent to execute and deliver, and to perform its obligations under, each of the Loan Documents to which the Administrative Agent and the Collateral Agent, as the case may be, is a party, to exercise all rights, powers and remedies that the Administrative Agent and the Collateral Agent may have under such Loan Documents and, in the case of the Security Documents, to act as agent for the Lenders, Issuing Lenders and the other Secured Parties under such Security Documents. Each Lender and each Issuing Lender hereby appoints (i) Sumitomo Mitsui Banking Corporation as Documentation Agent and (ii) Lehman Brothers Commercial Bank and Merrill Lynch, Pierce, Fenner & Smith Incorporated as Syndication Agents, and hereby authorizes each of them to act in their respective capacity on behalf of such Lender and such Issuing Lender in accordance with the terms of this Agreement and the other Loan Documents.

(b) As to any matters not expressly provided for by this Agreement and the other Loan Documents (including enforcement or collection), no Agent shall be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Required Lenders, and such instructions shall be binding upon all Lenders and each Issuing Lender; provided, however, that the Agents shall not be required to take any action that (i) such Agent in good faith believes exposes it to personal liability unless the Agent receives an indemnification satisfactory to it from the Lenders and the Issuing Lenders with respect to such action or (ii) is contrary to this Agreement or applicable law. The Administrative Agent agrees to give to each Lender and each Issuing Lender prompt notice of each notice given to it by any Loan Party pursuant to the terms of this Agreement or the other Loan Documents.

(c) In performing its functions and duties hereunder and under the other Loan Documents, each Agent is acting solely on behalf of the Lenders and the Issuing Lenders and its duties are entirely administrative in nature. No Agent assumes or shall be deemed to have assumed any

obligation other than as expressly set forth herein and in the other Loan Documents or any other relationship as the agent, fiduciary or trustee of or for any Lender, Issuing Lender or holder of any other Obligation. The Agents may perform any of their duties under any Loan Document by or through their agents or employees.

(d) In the event that Citicorp North America, Inc. or any of its Affiliates is or becomes an indenture trustee under the Trust Indenture Act of 1939 (as amended, the "Trust Indenture Act") in respect of any securities issued or guaranteed by any Loan Party pursuant to any Loan Document, the parties hereto acknowledge and agree that any payment or property received in satisfaction of or in respect of any Obligation of such Loan Party hereunder or under any other Loan Document by or on behalf of Citicorp North America, Inc. in its capacity as the Administrative Agent for the benefit of any Loan Party under any Loan Document (other than Citicorp North America, Inc. or an Affiliate of Citicorp North America, Inc.) and which is applied in accordance with the Loan Documents is exempt from the requirements of Section 311 of the Trust Indenture Act pursuant to Section 311(b)(3) of the Trust Indenture Act.

(e) The Joint Lead Arrangers, the Syndication Agent and the Documentation Agent shall have no obligations or duties whatsoever in such capacity under this Agreement or any other Loan Document and shall incur no liability hereunder or thereunder in such capacity.

9.2 Agents' Reliance, Etc. None of the Agents, any of their Affiliates or any of their respective directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it, him, her or them under or in connection with this Agreement or the other Loan Documents, except for its, his, her or their own gross negligence or willful misconduct. Without limiting the foregoing, each Agent (a) may treat the payee of any Note as its holder until such Note has been assigned in accordance with Section 10.6, (b) may rely on the Register, (c) may consult with legal counsel (including counsel to the Borrower or any other Loan Party), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts, (d) makes no warranty or representation to any Lender or Issuing Lender and shall not be responsible to any Lender or Issuing Lender for any statements, warranties or representations made by or on behalf of the Borrower or any of its Subsidiaries in or in connection with this Agreement or any other Loan Document, (e) shall not have any duty to ascertain or to inquire either as to the performance or observance of any term, covenant or condition of this Agreement or any other Loan Document, as to the financial condition of any Loan Party or as to the existence or possible existence of any Default or Event of Default, (f) shall not be responsible to any Lender or Issuing Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto or thereto and (g) shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon any notice, consent, certificate or other instrument or writing (which writing may be a telecopy or electronic mail) or any telephone message believed by it to be genuine and signed or sent by the proper party or parties (other than through such Person's gross negligence or willful misconduct).

9.3 Posting of Approved Electronic Communications. (a) Each of the Lenders, the Issuing Lender and the Borrower agree, and the Borrower shall cause each Subsidiary Guarantor to agree, that the Administrative Agent may, but shall not be obligated to, make the Approved Electronic Communications available to the Lenders and Issuing Lenders by posting such Approved Electronic Communications on IntraLinks™ or a substantially similar electronic platform chosen by the Administrative Agent to be its electronic transmission system (the "Approved Electronic Platform").

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Closing Date, a dual firewall and a User ID/Password Authorization System) and the Approved Electronic Platform is secured through a single-user-per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders, the Issuing Lenders, Holdings and the Borrower acknowledges and agrees, and the Borrower shall cause each Subsidiary Guarantor to acknowledge and agree, that the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution. In consideration for the convenience and other benefits afforded by such distribution and for the other consideration provided hereunder, the receipt and sufficiency of which is hereby acknowledged, each of the Lenders, the Issuing Lenders, Holdings and the Borrower hereby approves, and the Borrower shall cause each Subsidiary Guarantor to approve, distribution of the Approved Electronic Communications through the Approved Electronic Platform and understands and assumes, and the Borrower shall cause each Subsidiary Guarantor to understand and assume, the risks of such distribution; provided, however that the Agent shall remain liable for any such distribution to the extent such liability is a primarily the result of its gross negligence and willful misconduct as found in a final non-appealable judgment by a court of competent jurisdiction.

(c) THE APPROVED ELECTRONIC PLATFORM AND THE APPROVED ELECTRONIC COMMUNICATIONS ARE PROVIDED “AS IS” AND “AS AVAILABLE”. NONE OF THE ADMINISTRATIVE AGENT OR ANY OF ITS AFFILIATES OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS OR REPRESENTATIVES (THE “AGENT AFFILIATES”) WARRANT THE ACCURACY, ADEQUACY OR COMPLETENESS OF THE APPROVED ELECTRONIC COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM AND EACH EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE APPROVED ELECTRONIC COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE AGENT AFFILIATES IN CONNECTION WITH THE APPROVED ELECTRONIC PLATFORM OR THE APPROVED ELECTRONIC COMMUNICATIONS.

(d) Each of the Lenders, the Issuing Lenders, Holdings and the Borrower agree, and the Borrower shall cause each Subsidiary Guarantor to agree, that the Administrative Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Approved Electronic Communications on the Approved Electronic Platform in accordance with the Administrative Agent’s generally-applicable document retention procedures and policies.

9.4 The Agents as Lenders. With respect to its Aggregate Exposure, each Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender. The terms “Lenders”, “Revolving Lenders”, “Term Lenders”, “Required Lenders” and any similar terms shall, unless the context clearly otherwise indicates, include, without limitation, each Agent in its individual capacity as a Lender, a Revolving Lender, Term Lender or as one of the Required Lenders. Each Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of banking, trust or other business with, any Loan Party as if such Agent was not acting as an Agent.

9.5 Lender Credit Decision. Each Lender and each Issuing Lender acknowledges that it shall, independently and without reliance upon any Agent or any other Lender, conduct its own

independent investigation of the financial condition and affairs of the Borrower and each other Loan Party in connection with the making and continuance of the Loans and with the issuance of the Letters of Credit. Each Lender and each Issuing Lender also acknowledges that it shall, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and other Loan Documents. Except for the documents expressly required by any Loan Document to be transmitted by the Administrative Agent to the Lenders or the Issuing Lenders, the Administrative Agent shall not have any duty or responsibility to provide any Lender or any Issuing Lender with any credit or other information concerning the business, prospects, operations, property, financial or other condition or creditworthiness of any Loan Party or any Affiliate of any Loan Party that may come into the possession of any Agent or any Affiliate thereof or any employee or agent of any of the foregoing.

9.6 Indemnification. Each Lender agrees to indemnify each Agent and each of its Affiliates, and each of their respective directors, officers, employees, agents and advisors (to the extent not reimbursed by the Borrower), ratably according to their respective Aggregate Exposure Percentages in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Aggregate Exposure Percentages immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses and disbursements (including fees, expenses and disbursements of financial and legal advisors) of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against, any Agent or any of its Affiliates, directors, officers, employees, agents and advisors in any way relating to or arising out of this Agreement or the other Loan Documents or any action taken or omitted by such Agent under this Agreement or the other Loan Documents; provided, however, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's or such Affiliate's gross negligence or willful misconduct. Without limiting the foregoing, each Lender agrees to reimburse each Agent promptly upon demand for its ratable share of any out-of-pocket expenses (including fees, expenses and disbursements of financial and legal advisors) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of its rights or responsibilities under, this Agreement or the other Loan Documents, to the extent that such Agent is not reimbursed for such expenses.

9.7 Successor Agents. Any Agent may resign 30 days after giving written notice thereof to the Lenders and the Borrower or earlier upon appointment of a successor Agent hereunder. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Agent. If no successor Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within 30 days after the retiring Agent's giving of notice of resignation, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent. In either case, such appointment shall be subject to the prior written approval of the Borrower (which approval may not be unreasonably withheld and shall not be required upon the occurrence and during the continuance of an Event of Default under Section 8(a) or 8(f)). Upon the acceptance of any appointment as Agent by a successor Agent, such successor Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. Prior to any retiring Agent's resignation hereunder as Agent, the retiring Agent shall take such action as may be reasonably necessary to assign to the successor Agent its rights as Agent under the Loan Documents. After such resignation, the retiring Agent shall continue to have the benefit of this Section 9 as to any actions taken or omitted to be taken by it while it was Agent under this Agreement and the other Loan Documents.

**9.8 Concerning the Collateral and the Security Documents.** Each Lender and each Issuing Lender agrees that any action taken by the Administrative Agent or the Required Lenders (or, where required by the express terms of this Agreement, a greater proportion of the Lenders) in accordance with the provisions of this Agreement or of the other Loan Documents, and the exercise by the Administrative Agent or the Required Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Lenders, Issuing Lenders and other Secured Parties. Without limiting the generality of the foregoing, the Administrative Agent shall have the sole and exclusive right and authority to (i) act as the disbursing and collecting agent for the Lenders and the Issuing Lenders with respect to all payments and collections arising in connection herewith and with the Security Documents, (ii) execute and deliver each Security Document and accept delivery of each such agreement delivered by the Borrower or any of its Subsidiaries, (iii) act as collateral agent for the Lenders, the Issuing Lenders and the other Secured Parties for purposes of the perfection of all security interests and Liens created by such agreements and all other purposes stated therein, provided, however, that the Administrative Agent hereby appoints, authorizes and directs each Lender and Issuing Lender to act as collateral sub-agent for the Administrative Agent, the Lenders and the Issuing Lenders for purposes of the perfection of all security interests and Liens with respect to the Collateral and cash and Cash Equivalents held by, such Lender or such Issuing Lender, (iv) manage, supervise and otherwise deal with the Collateral, (v) take such action as is necessary or desirable to maintain the perfection and priority of the security interests and Liens created or purported to be created by the Security Documents and (vi) except as may be otherwise specifically restricted by the terms hereof or of any other Loan Document, exercise all remedies given to the Administrative Agent, the Lenders, the Issuing Lenders and the other Secured Parties with respect to the Collateral under the Loan Documents relating thereto, applicable law or otherwise.

**9.9 Collateral Matters Relating to Related Obligations.** The benefit of the Loan Documents and of the provisions of this Agreement relating to the Collateral shall extend to and be available in respect of any Obligation arising under any Specified Hedge Agreement or Cash Management Obligation or that is otherwise owed to Persons other than the Administrative Agent, the Lenders and the Issuing Lenders (collectively, "Related Obligations") solely on the condition and understanding, as among the Administrative Agent and all Secured Parties, that (a) the Related Obligations shall be entitled to the benefit of the Loan Documents and the Collateral to the extent expressly set forth in this Agreement and the other Loan Documents and to such extent the Administrative Agent shall hold, and have the right and power to act with respect to, the Guarantee and Collateral Agreement and the Collateral on behalf of and as agent for the holders of the Related Obligations, but the Administrative Agent is otherwise acting solely as agent for the Lenders and the Issuing Lenders and shall have no fiduciary duty, duty of loyalty, duty of care, duty of disclosure or other obligation whatsoever to any holder of Related Obligations, (b) all matters, acts and omissions relating in any manner to the Guarantee and Collateral Agreement, the Collateral, or the omission, creation, perfection, priority, abandonment or release of any Lien, shall be governed solely by the provisions of this Agreement and the other Loan Documents and no separate Lien, right, power or remedy shall arise or exist in favor of any Secured Party under any separate instrument or agreement or in respect of any Related Obligation, (c) each Secured Party shall be bound by all actions taken or omitted, in accordance with the provisions of this Agreement and the other Loan Documents, by the Administrative Agent and the Required Lenders, each of whom shall be entitled to act at its sole discretion and exclusively in its own interest given its own Commitments and its own interest in the Loans, Letter of Credit Obligations and other Obligations to it arising under this Agreement or the other Loan Documents, without any duty or liability to any other Secured Party or as to any Related Obligation and without regard to whether any Related Obligation remains outstanding or is deprived of the benefit of the Collateral or becomes unsecured or is otherwise affected or put in jeopardy thereby, (d) no holder of Related Obligations and no other Secured Party (except the Administrative Agent, the Lenders and the Issuing Lenders, to the extent set forth in this

Agreement) shall have any right to be notified of, or to direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under this Agreement or the Loan Documents and (e) no holder of any Related Obligation shall exercise any right of setoff, banker's lien or similar right except to the extent provided in Section 10.7.

## SECTION 10. MISCELLANEOUS

10.1 Amendments and Waivers. Subject to Section 2.25, neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Agents and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights or obligations of the Agents, the Swingline Lender, the Issuing Lenders, the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Agents may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall (i) forgive or reduce the principal amount or extend the final scheduled date of maturity of any Loan, extend the scheduled date or reduce the amount of any amortization payment in respect of any Term Loan, reduce the stated rate of any interest or fee payable hereunder (except (A) in connection with the waiver of applicability of any post-default increase in interest rates (which waiver shall be effective (x) as to the Revolving Facility, with the consent of the Majority Revolving Facility Lenders any (y) as to the Term Facility, with the consent of the Majority Term Facility Lenders) and (B) that any amendment or modification of defined terms used in the financial ratios in this Agreement shall not constitute a reduction in the rate of interest or fees for purposes of this clause (i)) or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender's Revolving Commitment, in each case without the written consent of each Lender directly and adversely affected thereby; (ii) eliminate or reduce the voting rights of any Lender under this Section 10.1 without the written consent of such Lender; (iii) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, release all or substantially all of the Collateral or release all or substantially all of the Guarantors from their obligations under the Guarantee and Collateral Agreement, in each case without the written consent of all Lenders; (iv) amend, modify or waive any provision of paragraph (a) or (c) of Section 2.18; (v) amend, modify or waive any provision of paragraph (b) of Section 2.18 without the written consent of the Majority Facility Lenders in respect of each Facility adversely affected thereby; (vi) reduce the percentage specified in the definition of Majority Facility Lenders with respect to any Facility without the written consent of all Lenders under such Facility; (vii) amend, modify or waive any provision of Section 9 without the written consent of the Agents; (viii) amend, modify or waive any provision of Section 2.6 or 2.7 without the written consent of the Swingline Lender; (ix) amend, modify or waive any provision of Section 3 without the written consent of the Issuing Lenders; or (y) affect the grant or nature of an option granted to a Special Purpose Vehicle pursuant to Section 10.6(e) or the right or duties of such Special Purpose Vehicle hereunder without the written consent of such Special Purpose Vehicle. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Agents and all future holders of the Loans. In the case of any waiver, the Loan Parties, the Lenders and the Agents shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing unless limited by the terms of such waiver; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Agents, Holdings and the Borrower (a) to add one or more additional credit facilities to this Agreement (it being understood that no Lender shall have any obligation to provide or to commit to provide all or any portion of any such additional credit facility) and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and Revolving Extensions of Credit and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and Majority Facility Lenders.

In addition, notwithstanding the foregoing, this Agreement may be amended with the written consent of the Agents, Holdings, the Borrower and the Lenders providing the relevant Replacement Term Loans (as defined below) to permit the refinancing of all outstanding Term Loans ("Refinanced Term Loans") with a replacement term loan tranche hereunder ("Replacement Term Loans"); provided that (a) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Refinanced Term Loans, (b) the Applicable Margin for such Replacement Term Loans shall not be higher than the Applicable Margin for such Refinanced Term Loans, (c) the weighted average life to maturity of such Replacement Term Loans shall not be shorter than the weighted average life to maturity of such Refinanced Term Loans at the time of such refinancing and (d) all other terms applicable to such Replacement Term Loans shall be substantially identical to, or less favorable to the Lenders providing such Replacement Term Loans than, those applicable to such Refinanced Term Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the latest final maturity of the Term Loans in effect immediately prior to such refinancing.

10.2 Notices. (a) All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice, when received, addressed as follows in the case of Holdings, the Borrower, the Agents, and as set forth in an administrative questionnaire delivered to the Administrative Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:

Holdings: Allison Transmission Holdings, Inc.  
4700 W. 10th Street  
Indianapolis, IN 46222  
Attention: Jack Hazen  
Telecopy: 317-242-0450  
Telephone: 317-242-6937

in each case with a copy to:

The Carlyle Group  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004  
Attention: Brian Bernasek  
Telecopy: 202-347-1818  
Telephone: 202-661-4321

Onex Partners II L.P.  
574 Woburn Avenue

Toronto, Ontario M5M 1L9  
Canada  
Attention: Kosty Gilis  
Telecopy: 416-362-6803  
Telephone: 416-362-7711

With a copy to:

Latham & Watkins LLP  
555 Eleventh Street, NW  
Suite 1000  
Washington, D.C. 20004  
Attention: Jennifer Van Driesen  
Telecopy: 202-637-2201  
Telephone: 202-637-2252

The Borrower:

Allison Transmission, Inc.  
4700 W. 10th Street  
Indianapolis, IN 46222  
Attention: Jack Hazen  
Telecopy: 317-242-0450  
Telephone: 317-242-6937

in each case with a copy to:

The Carlyle Group  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004  
Attention: Brian Bernasek  
Telecopy: 202-347-1818  
Telephone: 202-661-4321

Onex Partners II L.P.  
574 Woburn Avenue  
Toronto, Ontario M5M 1L9  
Canada  
Attention: Kosty Gilis  
Telecopy: 416-362-6803  
Telephone: 416-362-7711

With a copy to:

555 Eleventh Street, NW  
Suite 1000  
Washington, D.C. 20004  
Attention: Jennifer Van Driesen  
Telecopy: 202-637-2201  
Telephone: 202-637-2252

Agents:

Citicorp North America, Inc.  
390 Greenwich Street  
New York, NY 10013  
Attention: Neil Mahon  
Telecopy: 646-291-1629  
Telephone: 212.723.6614

With a copy to:

Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, NY 10153-0119  
Attention: Daniel S. Dokos  
Telecopy: 212-310-8007  
Telephone: 212-310-8576

(b) Effectiveness of Notices. All notices, demands, requests, consents and other communications described in clause (a) above shall be effective (i) if delivered by hand, including any overnight courier service, upon personal delivery, (ii) if delivered by mail, three (3) Business Days after being deposited in the mails, (iii) if delivered by posting to an Approved Electronic Platform (to the extent permitted by Section 10.3 to be delivered thereunder), an Internet website or a similar telecommunication device requiring a user prior access to such Approved Electronic Platform, website or other device (to the extent permitted by Section 10.2 to be delivered thereunder), when such notice, demand, request, consent and other communication shall have been made generally available on such Approved Electronic Platform, Internet website or similar device to the class of Person being notified (regardless of whether any such Person must accomplish, and whether or not any such Person shall have accomplished, any action prior to obtaining access to such items, including registration, disclosure of contact information, compliance with a standard user agreement or undertaking a duty of confidentiality) and such Person has been notified that such communication has been posted to the Approved Electronic Platform and (iv) if delivered by electronic mail or any other telecommunications device, when transmitted to an electronic mail address (or by another means of electronic delivery) as provided in clause (a) above; provided, however, that notices and communications to the Administrative Agent pursuant to Section 2 or Section 9 shall not be effective until received by the Administrative Agent.

(c) Use of Electronic Platform. Notwithstanding clause (a) and (b) above (unless the Administrative Agent requests that the provisions of clause (a) and (b) above be followed) and any other provision in this Agreement or any other Loan Document providing for the delivery of any Approved Electronic Communication by any other means the Loan Parties shall deliver all Approved Electronic Communications to the Administrative Agent by properly transmitting such Approved Electronic Communications in an electronic/soft medium in a format acceptable to the Administrative Agent to [oploanswebadmin@citigroup.com](mailto:oploanswebadmin@citigroup.com) or such other electronic mail address (or similar means of electronic delivery) as the Administrative Agent may notify the Borrower. Nothing in this clause (c) shall prejudice the right of the Administrative Agent or any Lender or Issuing Lender to deliver any Approved Electronic Communication to any Loan Party in any manner authorized in this Agreement or to request that the Borrower effect delivery in such manner.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of any Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

10.5 Payment of Expenses; Indemnification. Except with respect to taxes which are addressed in Section 2.20, the Borrower agrees (a) to pay or reimburse each Agent and the Joint Lead Arrangers for all their respective reasonable out-of-pocket costs and expenses incurred in connection with the syndication of the Facilities (other than fees payable to syndicate members) and the development, preparation, execution and delivery of this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith and any amendment, supplement or modification thereto, and, as to the Agents only, the administration of the transactions contemplated hereby and thereby, including, without limitation, the reasonable fees and disbursements and other charges of counsel to the Agents (including one primary counsel and such local counsel as the Agents may reasonably require in connection with collateral matters, but no more than one counsel in any jurisdiction) in connection with all of the foregoing, (b) to pay or reimburse each Lender, each Issuing Lender, the Agents and the Joint Lead Arrangers for all their documented out-of-pocket costs and expenses incurred in connection with the enforcement of any rights under this Agreement, the other Loan Documents and any such other documents, including, without limitation, the documented fees and disbursements of counsel (including the allocated fees and expenses of in-house counsel) to each Lender and of counsel to the Agents and each Issuing Lender and (c) to pay, indemnify or reimburse each Lender, each Agent, each Issuing Lender, each Joint Lead Arranger and their respective affiliates, and their respective officers, directors, trustees, employees, advisors, agents and controlling Persons (each, an “Indemnitee”) for, and hold each Indemnitee harmless from and against any and all other liabilities, obligations, losses, damages, penalties, costs, expenses or disbursements arising out of any actions, judgments or suits of any kind or nature whatsoever, arising out of or in connection with any claim, action or proceeding relating to or otherwise with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including, without limitation, any of the foregoing relating to the use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of the Borrower, any of its Subsidiaries or any of the Properties and the fees and disbursements and other charges of legal counsel in connection with claims, actions or proceedings by any Indemnitee against Holdings or the Borrower hereunder (all the foregoing in this clause (d), collectively, the “Indemnified Liabilities”); provided that neither Holdings nor the Borrower shall have any obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a court of competent jurisdiction to have resulted from the gross negligence, or willful misconduct of, or material breach of this Agreement by, such Indemnitee or its affiliates, officers, directors, trustees, employees, advisors, agents or controlling Persons. All amounts due under this Section 10.5 shall be payable promptly after receipt of a reasonably detailed invoice therefor. Statements payable by the Borrower pursuant to this Section shall be submitted to the Borrower at the address thereof set forth in Section 10.2, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Administrative Agent. The agreements in this Section 10.5 shall survive repayment of the Obligations.

10.6 Successors and Assigns; Participations and Assignments. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any affiliate of any Issuing Lender that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (each, an “Assignee”), all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Borrower; provided that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below) or, if an Event of Default under Section 8(a) or (f) has occurred and is continuing, any other Person; and

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) in the case of an assignment under the Revolving Facility, each Issuing Lender and the Swingline Lender.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans under any Facility, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of (I) the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or (II) if earlier, the "trade date" (if any) specified in such Assignment and Assumption) shall not be less than (x) \$5,000,000, in the case of the Revolving Facility or (y) \$1,000,000, in the case of the Term Facility, unless the Borrower and the Administrative Agent otherwise consent; provided that (1) no such consent of the Borrower shall be required if an Event of Default under Section 8(a) or (f) has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any;

(B) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; provided that only one such fee shall be payable in the case of contemporaneous assignments to or by two or more related Approved Funds; and

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire.

For the purposes of this Section 10.6, "Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) (i) an entity or an Affiliate of an entity that administers or manages a Lender or (ii) an entity or an Affiliate of an entity that is the investment advisor to a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) below, from and after the effective date specified in each Assignment and Assumption the Assignee thereunder, shall be a party hereto as a Lender and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.19, 2.20, 2.21 and 10.5); provided that each such Assignment and Assumption shall not be effective until acknowledged in writing by the Administrative Agent. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.6 shall be treated for

purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section. If any Issuing Lender ceases to be a Lender hereunder by virtue of any assignment made pursuant to this Section 10.6, then, as of the effective date of such cessation, such Issuing Lender's obligations to Issue Letters of Credit pursuant to Section 3 shall terminate and such Issuing Lender shall be an Issuing Lender hereunder only with respect to outstanding Letters of Credit issued prior to such date; provided that the Administrative Agent shall provide prompt notice to the Borrower of any such Issuing Lender ceasing to be an Issuing Lender hereunder.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). Holdings, the Borrower, the Administrative Agent, the Issuing Lenders, the Swingline Lender and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement (and the entries in the Register shall be conclusive for such purposes), notwithstanding notice to the contrary. The Register shall be available for inspection by Holdings, the Borrower, the Issuing Lenders, the Swingline Lender and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Assignee, the Assignee's completed administrative questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant"), but in any event not to certain persons identified to the Administrative Agent by the Borrower prior to the Closing Date, in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent, the Issuing Lenders, the Swingline Lender and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly and adversely affected thereby pursuant to the proviso to the second sentence of Section 10.1 and (2) directly affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.19, 2.20 and 2.21 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.19 or 2.20 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent to such greater amounts. No Participant shall be entitled to the

benefits of Section 2.20 unless such Participant complies with Section 2.20(e) or (f), as (and to the extent) applicable, as if such Participant were a Lender.

(d) Any Lender may, without the consent of or notice to the Administrative Agent or the Borrower, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(e) In addition to the other assignment rights provided in this Section 10.6, each Lender may grant to a Special Purpose Vehicle the option to make all or any part of any Loan that such Lender would otherwise be required to make hereunder and the exercise of such option by any such Special Purpose Vehicle together with the making of Loans pursuant thereto shall satisfy (once and to the extent that such Loans are made) the obligation of such Lender to make such Loans thereunder; provided, however, that (x) nothing herein shall constitute a commitment or an offer to commit by such a Special Purpose Vehicle to make Loans hereunder and no such Special Purpose Vehicle shall be liable for any indemnity or other Obligation (other than the making of Loans for which such Special Purpose Vehicle shall have exercised an option, and then only in accordance with the relevant option agreement) and (y) such Lender's obligations under the Loan Documents shall remain unchanged, such Lender shall remain responsible to the other parties for the performance of its obligations under the terms of this Agreement and shall remain the holder of the Obligations for all purposes hereunder

(f) The Borrower, upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in paragraph (d) above.

10.7 Adjustments; Set-off. (a) Except to the extent that this Agreement provides for payments to be allocated to a particular Lender or to the Lenders under a particular Facility, if any Lender (a "Benefited Lender") shall at any time receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by setoff, pursuant to events or proceedings of the nature referred to in Section 8(f), or otherwise) in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Obligations, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Obligations, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon any amount becoming due and payable by the Borrower hereunder (whether at the stated maturity, by acceleration or otherwise) after the expiration of any cure or grace periods, to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final but excluding trust accounts), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any Affiliate, branch or agency thereof to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such setoff and

application made by such Lender; provided that the failure to give such notice shall not affect the validity of such setoff and application.

10.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

10.9 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.10 Integration. This Agreement and the other Loan Documents represent the entire agreement of Holdings, the Borrower, the Agents and the Lenders with respect to the subject matter hereof and thereof.

10.11 Governing Law. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

10.12 Submission to Jurisdiction; Waivers. Each of Holdings and the Borrower hereby irrevocably and unconditionally:

(a) submits for itself and its Property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to it at its address set forth in Section 10.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

10.13 Acknowledgments. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) neither the Agents nor any Lender has any fiduciary relationship with or duty to the Borrower arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Agents and Lenders, on one hand, the Borrower, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Loan Parties and the Lenders.

10.14 Confidentiality. Each of the Administrative Agent, the Lenders and the Issuing Lender agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective managers, administrators, trustees, partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process (provided, that such Person shall use commercially reasonable efforts to inform the Borrower promptly of any such requirements unless such applicable law, regulation, subpoena or legal process is in connection with bank regulatory and examination matters), (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective party (or its managers, administrators, trustees, partners, directors, officers, employees, agents, advisors and other representatives) to any swap or derivative or similar transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (iii) any rating agency, or (iv) the CUSIP Service Bureau or any similar organization, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, the Issuing Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower.

For purposes of this Section, "Information" means all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the Issuing Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

10.15 Release of Collateral and Guarantee Obligations; Subordination of Liens. (a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, upon request of the Borrower in connection with any Disposition of Property permitted by the Loan Documents, the

administrative Agent shall (without notice to, or vote or consent of, any Lender, or any affiliate of any Lender that is a party to any Specified Hedge Agreement or Cash Management Obligations or contingent or indemnification obligations not then due) take such actions as shall be required to release its security interest in any Collateral being Disposed of in such Disposition, and to release any Guarantee Obligations under any Loan Document of any Person being Disposed of in such Disposition, to the extent necessary to permit consummation of such Disposition in accordance with the Loan Documents. Any representation or warranty contained in any Loan Document relating to any such Property so Disposed of (other than Property Disposed of to the Borrower or any of its Restricted Subsidiaries) shall no longer be deemed to be repeated once such Property is so Disposed of.

(b) Notwithstanding anything to the contrary contained herein or any other Loan Document, when all Obligations (other than (x) obligations in respect of any Specified Hedge Agreement or Cash Management Obligations and (y) any contingent or indemnification obligations not then due) have been paid in full, all Commitments have terminated or expired and no Letter of Credit shall be outstanding that is not cash collateralized or backstopped on terms reasonably acceptable to the applicable Issuing Bank, upon request of the Borrower, the Administrative Agent shall (without notice to, or vote or consent of, any Lender, or any affiliate of any Lender that is a party to any Specified Hedge Agreement documentation with respect to the Cash Management Obligations) take such actions as shall be required to release its security interest in all Collateral, and to release all Guarantee Obligations under any Loan Document, whether or not on the date of such release there may be outstanding Obligations in respect of Specified Hedge Agreements or Cash Management Obligations or contingent or indemnification obligations not then due. Any such release of Guarantee Obligations shall be deemed subject to the provision that such Guarantee Obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made.

(c) Notwithstanding anything to the contrary contained herein or in any other Loan Document, upon request of the Borrower in connection with any Indebtedness permitted by Section 7.2(c) and secured by a Lien permitted by Section 7.3(g), the Administrative Agent shall (without notice to, or vote or consent of, any Lender) take such actions to subordinate the Lien of the Secured Parties on the applicable Collateral, in each case, if requested by the Administrative Agent, subject to intercreditor arrangements reasonably satisfactory to the Administrative Agent.

10.16 Accounting Changes. In the event that any Accounting Change (as defined below) shall occur and such change results in a change in the method of calculation of financial ratios, standards or terms in this Agreement, then the Borrower and the Administrative Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such Accounting Changes with the desired result that the criteria for evaluating the Borrower's financial condition shall be the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Administrative Agent and the Required Lenders, all financial ratios, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. "Accounting Changes" refers to changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the SEC.

10.17 WAIVERS OF JURY TRIAL. EACH OF THE BORROWER, THE AGENTS AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY

JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

10.18 USA PATRIOT ACT. Each Lender hereby notifies the Loan Parties that pursuant to the requirements of the USA Patriot Act (Title III of Publ. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Loan Parties in accordance with the Act.

10.19 Limitation on Liability.

(a) Holdings and the Borrower agrees that no Indemnitee shall have any liability (whether in contract, tort or otherwise) to any Loan Party or any of their respective Subsidiaries or any of their respective equity holders or creditors for or in connection with the transactions contemplated hereby and in the other Loan Documents and Acquisition Documents, except to the extent such liability is determined by a court of competent jurisdiction to have resulted primarily from such Indemnitee's gross negligence or willful misconduct. In no event, however, shall any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including, without limitation, any loss of profits, business or anticipated savings). Each of Holdings and the Borrower hereby waives, releases and agrees (each for itself and on behalf of its Subsidiaries) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(b) IN NO EVENT SHALL ANY AGENT AFFILIATE HAVE ANY LIABILITY TO ANY LOAN PARTY, LENDER, ISSUER OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT OR CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY OR ANY AGENT AFFILIATE'S TRANSMISSION OF APPROVED ELECTRONIC COMMUNICATIONS THROUGH THE INTERNET OR ANY USE OF THE APPROVED ELECTRONIC PLATFORM, EXCEPT TO THE EXTENT SUCH LIABILITY OF ANY AGENT AFFILIATE IS FOUND IN A FINAL NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH AGENT AFFILIATE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

*[Remainder of Page Intentionally Left Blank; Signature Pages Follow]*

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

ALLISON TRANSMISSION HOLDINGS, INC.

By: /s/ John L. Hazen  
Name: John L. Hazen  
Title: Chief Financial Officer

ALLISON TRANSMISSION, INC.

By: /s/ John L. Hazen  
Name: John L. Hazen  
Title: Chief Financial Officer

[Signature Page to Allison Transmission Credit Agreement]

CITICORP NORTH AMERICA, INC.,  
as Administrative Agent

By: /s/ Francesco A. DelVecchio  
Name: Francesco A. DelVecchio  
Title: Vice President

CITIGROUP GLOBAL MARKETS INC.,  
as Joint Lead Arranger and Joint Bookrunner

By: /s/ Francesco A. DelVecchio  
Name: Francesco A. DelVecchio  
Title: Vice President

CITIBANK, N.A., as Issuing Bank

By: /s/ Francesco A. DelVecchio  
Name: Francesco A. DelVecchio  
Title: Vice President

[Signature Page to Allison Transmission Credit Agreement]

CITICORP NORTH AMERICA, INC., as Lender

By: /s/ Francesco A. DelVecchio

Name: Francesco A. DelVecchio

Title: Vice President

[Signature Page to Allison Transmission Credit Agreement]

LEHMAN BROTHERS, INC., as Joint Lead Arranger and Joint  
Bookrunner

By: /s/ Laurie B. Perper

Name: Laurie B. Perper

Title: Senior Vice President

LEHMAN BROTHERS COMMERCIAL PAPER, INC., as  
Lender

By: /s/ Laurie B. Perper

Name: Laurie B. Perper

Title: Senior Vice President

[Signature Page to Allison Transmission Credit Agreement]

MERRILL LYNCH & CO., MERRILL LYNCH, PIERCE,  
FENNER & SMITH INCORPORATED, as Joint Lead  
Arranger and Joint Bookrunner

By: /s/ Michael E. O'Brien

\_\_\_\_\_  
Name: Michael E. O'Brien

Title: Director

MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED, as Syndication Agent

By: /s/ Michael E. O'Brien

\_\_\_\_\_  
Name: Michael E. O'Brien

Title: Director

MERRILL LYNCH CAPITAL CORPORATION,  
as Lender

By: /s/ Michael E. O'Brien

\_\_\_\_\_  
Name: Michael E. O'Brien

Title: Director

[Signature Page to Allison Transmission Credit Agreement]

SUMITOMO MITSUI BANKING CORPORATION, as  
Documentation Agent, Co-Arranger and Lender

By: /s/ Leo E. Pagarigan  
Name: Leo E. Pagarigan  
Title: General Manager

[Signature Page to Allison Transmission Credit Agreement]

SCHEDULE I TO CREDIT AGREEMENT

**COMMITMENTS**

A. Revolving Commitments

<u>Lender</u>	<u>Amount</u>
Citicorp North America, Inc.	\$100,000,000
Lehman Brothers Commercial Bank	\$100,000,000
Merrill Lynch Capital Corporation	\$100,000,000
Sumitomo Mitsui Banking Corporation	\$100,000,000
Total:	\$400,000,000

B. Term Loan Commitments

<u>Lender</u>	<u>Amount</u>
Citicorp North America, Inc.	\$ 775,000,000
Lehman Brothers Commercial Bank	\$ 775,000,000
Merrill Lynch Capital Corporation	\$ 775,000,000
Sumitomo Mitsui Banking Corporation	\$ 775,000,000
Total:	\$3,100,000,000

## AMENDMENT NO. 1

This Amendment No. 1 and Consent, dated as of November 21, 2008 (this "Amendment"), to that certain Credit Agreement, dated as of August 7, 2007 (the "Credit Agreement"), among ALLISON TRANSMISSION HOLDINGS, INC. (formerly known as Clutch Holdings, Inc.), a Delaware corporation ("Holdings"), ALLISON TRANSMISSION, INC. (formerly known as Clutch Operating Company, Inc.), a Delaware corporation (the "Borrower"), the several banks and other financial institutions or entities from time to time parties thereto (the "Lenders"), CITICORP NORTH AMERICA, INC., as Administrative Agent, LEHMAN BROTHERS COMMERCIAL BANK and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Syndication Agents, SUMITOMO MITSUI BANKING CORPORATION, as Documentation Agent and Co-Arranger and CITIGROUP GLOBAL MARKETS INC., LEHMAN BROTHERS INC. and MERRILL LYNCH & CO., MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Joint Lead Arrangers and Joint Bookrunners, is entered into among Holdings, the Borrower, the Administrative Agent and the Lenders party hereto. Capitalized terms used herein but not defined herein are used as defined in the Credit Agreement.

## WITNESSETH:

WHEREAS, the Borrower, Holdings, the Administrative Agent, the Lenders and other parties thereto are parties to the Credit Agreement;

WHEREAS, the Borrower desires to have the ability to make certain Discounted Voluntary Prepayments (as defined below); and

WHEREAS, in connection with such contemplated Discounted Voluntary Prepayments, the Borrower has requested that certain amendments be made to the Credit Agreement as set forth herein;

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and obligations herein set forth and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, and in reliance upon the representations, warranties and covenants herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

**SECTION 1. AMENDMENTS TO THE CREDIT AGREEMENT.**

Effective as of the First Amendment Effective Date (as defined in *Section 2* below) and subject to the satisfaction (or due waiver) of the conditions set forth in *Section 3 (Conditions Precedent)* hereof, the Credit Agreement is hereby amended as follows:

1.1 The definition of "Available Amount" in *Section 1.1 (Defined Terms)* of the Credit Agreement is hereby amended by adding the words "or any Equity Issuance the proceeds of which are used to make a Discounted Voluntary Prepayment" at the end of *clause (b)* thereto.

1.2 The definition of "Consolidated Net Income" in *Section 1.1 (Defined Terms)* of the Credit Agreement is hereby amended by adding the following parenthetical after "(A) Indebtedness":

(including as the result of any Discounted Voluntary Prepayment)

1.3 The definition of “Excess Cash Flow” in Section 1.1 (*Defined Terms*) of the Credit Agreement is hereby amended by adding the following parenthetical after the words “other than the optional prepayments of the Term Loans” in clause (b)(iii) thereof:

(including any Discounted Voluntary Prepayments)

1.4 Section 1.1 of the Credit Agreement is hereby amended by adding the following new definitions (in correct alphabetical order):

“Acceptable Discount”: as defined in Section 2.11(b)(ii).

“Acceptance Date”: as defined in Section 2.11(b)(i).

“Applicable Discount”: as defined in Section 2.11(b)(ii).

“Discount Range”: as defined in Section 2.11(b)(i).

“Discounted Prepayment Option Notice”: as defined in Section 2.11(b)(i).

“Discounted Voluntary Prepayment”: as defined in Section 2.11(b)(i).

“Discounted Voluntary Prepayment Notice”: as defined in Section 2.11(b)(iii).

“First Amendment Effective Date”: as defined in Amendment No. 1, dated as of November 21, 2008, among Holdings, the Borrower, the Administrative Agent and the Lenders.

“Lender Participation Notice”: as defined in Section 2.11(b)(ii).

“Offered Loans”: as defined in Section 2.11(b)(ii).

“Proposed Discounted Prepayment Amount”: as defined in Section 2.11(b)(i).

“Qualifying Term Loans”: as defined in Section 2.11(b)(iii).

1.5 Section 2.3 (*Repayment of Term Loans*) of the Credit Agreement is hereby amended by replacing the parenthetical therein with the following:

(as adjusted to reflect any prepayments thereof (other than any Discounted Voluntary Prepayment))

1.6 Section 2.11 (*Optional Prepayments*) of the Credit Agreement is hereby amended by (i) adding an “(a)” at the beginning thereof and (ii) adding the following clause (b):

(b) (i) Notwithstanding anything to the contrary in Section 2.11(a) above, the Borrower may at any time and from time to time prepay Term Loans (each, a “Discounted Voluntary Prepayment”) during the period commencing on the First Amendment Effective Date and ending on the Term Maturity Date pursuant to the procedures described in this Section 2.11(b). In connection with any Discounted Voluntary Prepayment, the Borrower will provide written notice to the Administrative Agent (each, a “Discounted Prepayment Option Notice”) that the Borrower desires to prepay Term Loans with proceeds in an aggregate amount specified by the Borrower (each, a “Proposed Discounted Prepayment Amount”), which amount shall be not less than \$10,000,000 in the aggregate in each case at a discount as specified below; provided that (A) the

Proposed Discounted Prepayment Amount together with the aggregate actual amount of all prior Discounted Voluntary Prepayments shall not exceed \$750,000,000 and (B) no proceeds of Revolving Loans shall be used to finance any Discounted Voluntary Prepayment. The Discounted Prepayment Option Notice shall further specify with respect to the proposed Discounted Voluntary Prepayment: (A) the Proposed Discounted Prepayment Amount, (B) a discount range selected by the Borrower with respect to such proposed Discounted Voluntary Prepayment equal to a percentage of par of the principal amount of Term Loans (the “Discount Range”), (C) the source of proceeds to be used to make such Discounted Voluntary Prepayment and (D) the date by which Term Lenders are required to indicate their election to participate in such proposed Discounted Voluntary Prepayment which shall be at least two Business Days following the date of the Discounted Prepayment Option Notice (“Acceptance Date”).

(ii) Upon receipt of any Discounted Prepayment Option Notice, the Administrative Agent shall promptly notify each Term Lender thereof. On or prior to the Acceptance Date, each Term Lender may specify by written notice (each, a “Lender Participation Notice”) to the Administrative Agent a discount to par (the “Acceptable Discount”) within the Discount Range for a principal amount (subject to rounding requirements specified by the Administrative Agent) of Term Loans at which such Lender is willing to permit a Discounted Voluntary Prepayment (“Offered Loans”). Based on the Acceptable Discounts and principal amounts of Term Loans specified by the Term Lenders in the applicable Lender Participation Notices, the applicable discount (the “Applicable Discount”) for the Discounted Voluntary Prepayment will be either (A) the Acceptable Discount at which the Borrower can repay the Proposed Discounted Prepayment Amount in full (determined by adding the principal amounts of Offered Loans commencing with the Offered Loans with the highest Acceptable Discount) or (B) in the event that such Proposed Discounted Prepayment Amount cannot be repaid in full at any Acceptable Discount (determined by adding the principal amounts of Offered Loans commencing with the Offered Loans with the highest Acceptable Discount), the Applicable Discount shall be the lowest Acceptable Discount specified by the Term Lenders that is within the Discount Range. The Applicable Discount shall be applicable for all Term Lenders who have offered to participate in the Voluntary Discounted Prepayment and have Qualifying Term Loans (as defined below).

(iii) The Borrower shall make a Discounted Voluntary Prepayment by prepaying those Term Loans (or the respective portions thereof) offered by the Term Lenders that specify an Acceptable Discount that is equal to or higher than the Applicable Discount (“Qualifying Term Loans”) at the Applicable Discount; provided that if the aggregate proceeds required to prepay Qualifying Term Loans (disregarding any interest payable at such time) would exceed the Proposed Discounted Prepayment Amount for such Discounted Voluntary Prepayment, the Borrower shall prepay such Qualifying Term Loans at the Applicable Discount ratably based on the respective principal amounts of such Qualifying Term Loans (subject to rounding requirements specified by the Administrative Agent). Each Discounted Voluntary Prepayment shall be made within five Business Days of the Acceptance Date, without premium or penalty, upon irrevocable notice (each a “Discounted Voluntary Prepayment Notice”), delivered to the Administrative Agent no later than 1:00 P.M. New York City time, three Business Days prior to the date of such Discounted Voluntary Prepayment, which notice shall specify the date and amount of the Discounted Voluntary Prepayment and the Applicable Discount determined by the Administrative Agent; provided that if a LIBO Rate Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.21. Upon receipt of any Discounted Voluntary Prepayment Notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any Discounted Voluntary Prepayment Notice is given, the amount specified in such notice shall be due and

payable to the applicable Term Lenders on the date specified therein together with accrued interest (on the par principal amount) to but not including such date on the amount prepaid.

(iv) To the extent not expressly provided for herein, each Discounted Voluntary Prepayment shall be consummated pursuant to procedures (including as to timing, rounding, minimum amounts, Type and Interest Periods and calculation of Applicable Discount in accordance with Section 2.11(b)(ii) above) established by the Administrative Agent and agreed to by the Borrower.

(v) Prior to the delivery of a Discounted Voluntary Prepayment Notice, upon written notice to the Administrative Agent, (A) the Borrower may withdraw its offer to make a Discounted Voluntary Prepayment pursuant to any Discounted Prepayment Option Notice and (B) any Term Lender may withdraw its offer to participate in a Discounted Voluntary Prepayment pursuant to any Lender Participation Notice.

1.7 Section 2.12 (*Mandatory Prepayments*) of the Credit Agreement is hereby amended by deleting *clause (c)* thereof in its entirety and inserting in its place the following:

(c) Unless the Required Prepayment Lenders shall otherwise agree, if, for any fiscal year of the Borrower commencing with the fiscal year ending December 31, 2008, there shall be Excess Cash Flow, the Borrower shall, on the relevant Excess Cash Flow Application Date, apply an amount equal to (i) the Excess Cash Flow Percentage of such Excess Cash Flow minus (ii) the aggregate amount of all prepayments of Revolving Loans and Swingline Loans during such fiscal year to the extent accompanied by permanent optional reductions of the Revolving Commitments and all optional prepayments of the Term Loans during such fiscal year (in each case, other than a) any such prepayment constituting a Discounted Voluntary Prepayment, or b) to the extent any such prepayment is funded with the proceeds of new long-term Indebtedness or any Equity Issuance, toward the prepayment of the Term Loans as set forth in Section 2.12(d)). Each such prepayment shall be made on a date (an "Excess Cash Flow Application Date") no later than ten days after the date on which the financial statements referred to in Section 6.1(a), for the fiscal year with respect to which such prepayment is made, are required to be delivered to the Administrative Agent. Notwithstanding the foregoing, all mandatory prepayments pursuant to this Section 2.12(c) shall be limited to the extent that the Borrower reasonably determines that such mandatory prepayments would result in adverse tax consequences related to the repatriation of funds in connection therewith by Foreign Subsidiaries of the Borrower; provided that any amount so excluded from any such mandatory prepayment pursuant to the operation of this sentence shall not increase the Available Amount pursuant to clause (a)(i) of the definition thereof.

1.8 Section 7.1 (*Total Senior Secured Leverage Ratio*) of the Credit Agreement is hereby amended by replacing each reference to "October 31" therein to "September 30".

1.9 Section 10.6 (*Successors and Assigns; Participations and Assignments*) of the Credit Agreement is hereby amended by deleting *clause (f)* thereof in its entirety and inserting in its place the following:

(f) The Borrower, upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in paragraph (d) above, Section 2.11 or Section 2.12.

## SECTION 2. CONDITIONS PRECEDENT

This Amendment shall become effective as of the date (the "First Amendment Effective Date") on which each of the following conditions precedent shall have been satisfied or duly waived:

2.1 **Certain Documents.** The Administrative Agent shall have received each of the following, in form and substance satisfactory to the Administrative Agent:

- (a) this Amendment, duly executed by each of the Borrower and Holdings, on behalf of itself and each other Loan Party, and the Administrative Agent and the Requisite Lenders;
- (b) such additional documentation related to this Amendment as the Administrative Agent may reasonably require.

2.2 **Payment of Costs and Expenses.** The Administrative Agent and each Lender which shall have delivered (by facsimile or otherwise) an executed signature page to this Amendment to the Administrative Agent on or prior to the end of business on November \_\_\_\_, 2008 shall have received payment of (i) all fees, costs and expenses, including, without limitation, all costs and expenses of the Administrative Agent and such Lenders (including, without limitation, the reasonable fees and out-of-pocket expenses of counsel for the Administrative Agent) in connection with this Amendment, the Credit Agreement and each other Loan Document, as required by Section 5.1 hereof and (ii) without duplication and as consideration for the execution of this Amendment, an amendment fee equal to 0.025% of the respective Commitments of such Lenders.

2.3 **Representations and Warranties.** Each of the representations and warranties contained in Section 3 below shall be true and correct.

## SECTION 3. REPRESENTATIONS AND WARRANTIES

Each of Holdings and the Borrower, on behalf of itself and each Loan Party, hereby represents and warrants to the Administrative Agent and each Lender, with respect to all Loan Parties, as follows:

3.1 **Incorporation of Representations and Warranties from Credit Agreement.** After giving effect to this Amendment, each of the representations and warranties in the Credit Agreement and in the other Loan Documents are true and correct in all material respects (except to the extent that such representation or warranty is qualified as to materiality, in which case it shall be true and correct in all respects) on and as of the date hereof as though made on and as of such date, except to the extent that any such representation or warranty expressly relates to an earlier date;

3.2 **Corporate Power and Authority.** Each Loan Party has taken all necessary action to authorize the execution, delivery and performance of this Amendment, this Amendment has been duly executed and delivered by each Loan Party, and this Amendment is the legal, valid and binding obligation of each Loan Party, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles; and

3.3 **Absence of Default.** At the time of and immediately after giving effect to this Amendment, no Default or Event of Default has occurred and is continuing.

#### SECTION 4. CONSENT OF LENDERS

4.1 This Amendment shall neither (i) require the Borrower to undertake any Discounted Voluntary Prepayment nor (ii) limit or restrict the Borrower from making voluntary prepayments of the Loans in accordance with the other provisions of the Credit Agreement.

4.2 Each Lender participating in a Discounted Voluntary Prepayment acknowledges that the Borrower may have information regarding the Term Loans or the Loan Parties under the Credit Agreement or their respective securities that may not be known to such Lender and that may be material to a decision by such Lender to participate in such Discounted Voluntary Prepayment. Each Lender further acknowledges that such information may not be available to the Administrative Agent or the other Lenders under the Credit Agreement.

#### SECTION 5. MISCELLANEOUS

5.1 **Costs and Expenses.** The Borrower agrees to reimburse the Agents for their costs and expenses in connection with this Amendment (and any other Loan Documents delivered in connection herewith) as provided in Section 2.2 hereof and Section 10.5 of the Credit Agreement.

##### 5.2 **Reference to and Effect on the Loan Documents.**

(a) As of the Effective Date, each reference in the Credit Agreement and the other Loan Documents to “*this Agreement*,” “*hereunder*,” “*hereof*,” “*herein*,” or words of like import, and each reference in the other Loan Documents to the Credit Agreement (including, without limitation, by means of words like “*thereunder*,” “*thereof*” and words of like import), shall mean and be a reference to the Credit Agreement as amended and as waived hereby with respect to the certain requirements outlined above, and this Amendment and the Credit Agreement shall be read together and construed as a single instrument.

(b) Except as expressly amended hereby, all of the terms and provisions of the Credit Agreement and all other Loan Documents are and shall remain in full force and effect and are hereby ratified and confirmed.

(c) The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of the Administrative Agent, any Lender or any Issuer under the Credit Agreement or any Loan Document, or constitute a waiver or amendment of any other provision of the Credit Agreement or any Loan Document (as amended hereby) except as and to the extent expressly set forth herein.

(d) Each of Holdings, the Borrower and (by its acknowledgement hereof as set forth on the signature pages hereto) each other Loan Party, hereby confirms that the guaranties, security interests and liens granted pursuant to the Loan Documents continue to guarantee and secure the Obligations as set forth in the Loan Documents and that such guaranties, security interests and liens remain in full force and effect.

5.3 **Counterparts.** This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Receipt by the Administrative Agent of a facsimile copy of an executed signature page hereof shall constitute receipt by the Administrative Agents of an executed counterpart of this Amendment.

5.4 **Governing Law.** This Amendment and the rights and obligations of the parties hereto shall be governed by, and construed and interpreted in accordance with, the law of the State of New York.

5.5 **Loan Document and Integration.** This Amendment is a Loan Document, and together with the other Loan Documents, incorporates all negotiations of the parties hereto with respect to the subject matter hereof and is the final expression and agreement of the parties hereto with respect to the subject matter hereof.

5.6 **Headings.** Section headings contained in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purposes.

5.7 **Waiver of Jury Trial.** EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING WITH RESPECT TO THIS AMENDMENT OR ANY OTHER LOAN DOCUMENT.

[SIGNATURE PAGES FOLLOW]

**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment to be executed by their respective officers and members thereunto duly authorized, as of the date indicated above.

ALLISON TRANSMISSION HOLDINGS, INC.

By: /s/ David S. Graziosi

Name: David S. Graziosi

Title: Chief Financial Officer

ALLISON TRANSMISSION, INC.

By: /s/ David S. Graziosi

Name: David S. Graziosi

Title: Chief Financial Officer

[SIGNATURE PAGE TO AMENDMENT NO. 1]

CITICORP NORTH AMERICA, INC., as Administrative Agent  
and Lender

By: /s/ Michael Zicar

Name: Michael Zicari

Title: Vice President

[SIGNATURE PAGE TO AMENDMENT NO. 1]



**Acknowledgement and Consent to Amendment**

To: CITICORP NORTH AMERICA, INC., as Administrative Agent  
390 Greenwich Street  
New York, New York 10013

RE: ALLISON TRANSMISSION, INC.

Reference is made to that certain Credit Agreement, dated as of August 7, 2007 (the "Credit Agreement"), among ALLISON TRANSMISSION HOLDINGS, INC. (formerly known as Clutch Holdings, Inc.), a Delaware corporation ("Holdings"), ALLISON TRANSMISSION, INC. (formerly known as Clutch Operating Company, Inc.), a Delaware corporation (the "Borrower"), the several banks and other financial institutions or entities from time to time parties thereto (the "Lenders"), CITICORP NORTH AMERICA, INC., as Administrative Agent, LEHMAN BROTHERS COMMERCIAL BANK and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Syndication Agents, SUMITOMO MITSUI BANKING CORPORATION, as Documentation Agent and Co-Arranger and CITIGROUP GLOBAL MARKETS INC., LEHMAN BROTHERS INC. and MERRILL LYNCH & CO., MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Joint Lead Arrangers and Joint Bookrunners, is entered into among Holdings, the Borrower, the Administrative Agent and the Lenders party hereto. Capitalized terms used herein but not defined herein are used as defined in the First Lien Credit Agreement.

The Borrower has requested that the Lenders consent to an amendment to the Credit Agreement on the terms described in the Amendment No.1 and Consent (the "Amendment"), the form of which is attached hereto.

Pursuant to Section 10.1 of the Credit Agreement, the undersigned Lender hereby consents to the terms of the Amendment and authorizes the Administrative Agent to execute and deliver the Amendment on its behalf.

Very truly yours,

\_\_\_\_\_  
Name of Lender

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

Name:

Title:

Dated as of \_\_\_\_\_, 2008

[LENDER ACKNOWLEDGMENT AND CONSENT TO AMENDMENT TO CREDIT AGREEMENT]

GUARANTEE AND COLLATERAL AGREEMENT

made by

ALLISON TRANSMISSION HOLDINGS, INC.

ALLISON TRANSMISSION, INC.

as Borrower,

and the Subsidiary Guarantors party hereto

in favor of

CITICORP NORTH AMERICA, INC.,

as Administrative Agent

Dated as of August 7, 2007

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## GUARANTEE AND COLLATERAL AGREEMENT

GUARANTEE AND COLLATERAL AGREEMENT, dated as of August 7, 2007, made by each of the signatories hereto, in favor of CITICORP NORTH AMERICA, INC., as Administrative Agent (in such capacity, the "Administrative Agent") for the banks and other financial institutions or entities (the "Lenders") from time to time parties to the Credit Agreement, dated as of August 7, 2007 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among ALLISON TRANSMISSION HOLDINGS, INC. (formerly known as Clutch Holdings, Inc.), a Delaware corporation ("Holdings"), ALLISON TRANSMISSION, INC. (formerly known as Clutch Operating Company, Inc.), a Delaware corporation (the "Borrower"), the several banks and other financial institutions or entities from time to time parties to this Agreement (the "Lenders"), CITICORP NORTH AMERICA, INC., as Administrative Agent and Collateral Agent, LEHMAN BROTHERS COMMERCIAL BANK and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Syndication Agents, SUMITOMO MITSUI BANKING CORPORATION, as Documentation Agent and Co-Arranger, and CITIGROUP GLOBAL MARKETS INC., LEHMAN BROTHERS INC. and MERRILL LYNCH & CO., MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Joint Lead Arrangers and Joint Bookrunners.

### WITNESSETH:

WHEREAS, pursuant to the Credit Agreement, the Lenders have severally agreed to make extensions of credit to the Borrower upon the terms and subject to the conditions set forth therein;

WHEREAS, the Borrower is a member of an affiliated group of companies that includes each other Grantor (as defined below);

WHEREAS, the proceeds of the extensions of credit under the Credit Agreement will be used in part to enable the Borrower to make valuable transfers to one or more of the other Grantors in connection with the operation of their respective businesses;

WHEREAS, the Borrower and the other Grantors are engaged in related businesses, and each Grantor will derive substantial direct and indirect benefit from the making of the extensions of credit under the Credit Agreement; and

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective extensions of credit to the Borrower under the Credit Agreement that the Grantors shall have executed and delivered this Agreement to the Administrative Agent;

NOW, THEREFORE, in consideration of the premises and to induce the Administrative Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective extensions of credit to the Borrower thereunder, each Grantor hereby agrees with the Administrative Agent, for the ratable benefit of the Secured Parties, as follows:

### SECTION 1. DEFINED TERMS

1.1 Definitions. (a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement, and the following terms are used herein as defined in the New York UCC: "Accession", "Account",

“As-Extracted Collateral”, “Chattel Paper”, “Commercial Tort Claim”, “Commodity Account”, “Commodity Contract”, “Document”, “Electronic Chattel Paper”, “Equipment”, “Farm Products”, “Financial Asset”, “Fixture”, “General Intangible”, “Goods”, “Instrument”, “Inventory”, “Letter-of-Credit Right”, “Securities Account”, “Security”, “Security Certificate”, “Security Entitlement” and “Tangible Chattel Paper”.

(b) The following terms shall have the following meanings:

“Agreement”: this Guarantee and Collateral Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

“Borrower Credit Agreement Obligations”: the collective reference to the unpaid principal of and interest on the Loans (including, for the avoidance of doubt, any New Loans), the Reimbursement Obligations and all other obligations and liabilities of the Borrower (including, without limitation, interest accruing at the then applicable rate provided in the Credit Agreement after the maturity of the Loans and Reimbursement Obligations and interest accruing at the then applicable rate provided in the Credit Agreement after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) to the Administrative Agent or any other Secured Party, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, in each case, which may arise under, out of, or in connection with, the Credit Agreement, this Agreement, the other Loan Documents, any Letter of Credit or any other document made, delivered or given in connection therewith, in each case whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all fees and disbursements of counsel to the Administrative Agent or to the other Secured Parties that are required to be paid by the Borrower pursuant to the terms of any of the foregoing agreements).

“Borrower Hedge Agreement Obligations”: the collective reference to all obligations and liabilities of the Borrower and its Restricted Subsidiaries (including, without limitation, interest accruing at the then applicable rate provided in any Specified Hedge Agreement after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) to any Lender or any affiliate of any Lender (or any Lender or any affiliate thereof at the time such Specified Hedge Agreement was entered into), whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, in each case, which may arise under, out of, or in connection with, any Specified Hedge Agreement or any other document made, delivered or given in connection therewith, in each case whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all fees and disbursements of counsel to the relevant Lender or affiliate thereof that are required to be paid by the Borrower and/or its Restricted Subsidiaries, as the case may be, pursuant to the terms of any Specified Hedge Agreement).

“Borrower Obligations”: the collective reference to (i) the Borrower Credit Agreement Obligations, (ii) the Borrower Hedge Agreement Obligations and (iii) the Cash Management Obligations, but, as to clauses (ii) and (iii) hereof, only to the extent that, and only so long as, the Borrower Credit Agreement Obligations are secured and guaranteed pursuant hereto.

“Collateral”: as defined in Section 3.1.

“Collateral Account”: any collateral account established by the Administrative Agent as provided in Section 6.1 or 6.5.

“Copyright Licenses”: all written agreements naming any Grantor as licensor or licensee (including, without limitation, those listed in Schedule 4), granting any right under any Copyright, including, without limitation, the grant of rights to manufacture, distribute, exploit and sell materials derived from any Copyright.

“Copyrights”: (i) all copyrights arising under the laws of the United States, whether registered or unregistered and whether published or unpublished (including, without limitation, those listed in Schedule 4), all registrations and recordings thereof, and all applications in connection therewith, including, without limitation, all registrations, recordings and applications in the United States Copyright Office, and (ii) the right to obtain all renewals thereof.

“Deposit Account”: as defined in the Uniform Commercial Code of any applicable jurisdiction and, in any event, including, without limitation, any demand, time, savings, passbook or like account maintained with a depository institution.

“Foreign Subsidiary Voting Stock”: the voting Capital Stock of (i) any Foreign Subsidiary that is a Restricted Subsidiary or (ii) any Domestic Subsidiary, substantially all of the assets of which consist of the Capital Stock of one or more Foreign Subsidiaries.

“Grantors”: the collective reference to each signatory hereto (other than the Administrative Agent) together with any other entity that may become a party hereto as provided herein.

“Guarantor Obligations”: with respect to any Guarantor, all obligations and liabilities of such Guarantor which may arise under or in connection with this Agreement (including, without limitation, Section 2) or any other Loan Document to which such Guarantor is a party, in each case whether on account of guarantee obligations, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all fees and disbursements of counsel to the Administrative Agent or to the other Secured Parties that are required to be paid by such Guarantor pursuant to the terms of this Agreement or any other Loan Document).

“Guarantors”: the collective reference to the Subsidiary Guarantors that may become a party hereto as provided herein.

“Intellectual Property”: the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, now existing or hereafter adopted or acquired, including, without limitation, the Copyrights, the Copyright Licenses, the Patents, the Patent Licenses, the Trademarks and the Trademark Licenses, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

“Intercompany Note”: any promissory note evidencing loans made by any Grantor to Holdings or any of its Subsidiaries.

“Investment Property”: the collective reference to (i) all “investment property” as such term is defined in Section 9-102(a)(49) of the New York UCC (other than any Foreign

Subsidiary Voting Stock excluded from the definition of “Pledged Stock”) and (ii) whether or not constituting “investment property” as so defined, all Pledged Securities.

“Issuer”: the collective reference to each issuer of a Pledged Security.

“New York UCC”: the Uniform Commercial Code from time to time in effect in the State of New York.

“Obligations”: (i) in the case of the Borrower, its Borrower Obligations and (ii) in the case of each Guarantor, its Guarantor Obligations.

“Patent License”: all written agreements providing for the grant by or to any Grantor of any right to manufacture, use or sell any invention covered in whole or in part by a Patent, including, without limitation, any of the foregoing referred to in Schedule 4.

“Patents”: (i) all letters patent of the United States, all reissues and extensions thereof, and all goodwill associated therewith, including, without limitation, any of the foregoing referred to in Schedule 4, (ii) all applications for letters patent of the United States, any other country or any political subdivision thereof, and all continuations and continuations in part thereof, including, without limitation, any of the foregoing referred to in Schedule 4, and (iii) all rights to obtain any reissues or extensions of the foregoing.

“Pledged Notes”: all promissory notes listed on Schedule 2, all Intercompany Notes at any time issued to any Grantor in excess of \$5,000,000 (or Intercompany Notes which, in the aggregate, are in excess of \$5,000,000) and all other promissory notes issued to or held by any Grantor in excess of \$5,000,000 (other than promissory notes issued in connection with extensions of trade credit by any Grantor in the ordinary course of business).

“Pledged Securities”: the collective reference to the Pledged Notes and the Pledged Stock.

“Pledged Stock”: the collective reference to (i) the shares of Capital Stock listed on Schedule 2 and (ii) any other shares, stock certificates, options, interests or rights of any nature whatsoever in respect of the Capital Stock of any Person that may be issued or granted to, or held by, any Grantor while this Agreement is in effect; provided that in no event shall more than 65% of the total outstanding Foreign Subsidiary Voting Stock of any Foreign Subsidiary or any Domestic Subsidiary, substantially all of the assets of which consist of one or more Foreign Subsidiaries, be required to be pledged hereunder.

“Proceeds”: all “proceeds” as such term is defined in Section 9-102(a)(64) of the New York UCC and, in any event, shall include, without limitation, all dividends or other income from the Investment Property, collections thereon or distributions or payments with respect thereto.

“Receivable”: any right to payment for goods sold or leased or for services rendered, whether or not such right is evidenced by an Instrument or Chattel Paper and whether or not it has been earned by performance (including, without limitation, any Account).

“Secured Parties”: the “Secured Parties” as defined in the Credit Agreement.

“Securities Act”: the Securities Act of 1933, as amended.

“Subject Liens”: as defined in Section 3.1.

“Trademark License”: all written agreements providing for the grant by or to any Grantor of any right to use any Trademark, including, without limitation, any of the foregoing referred to in Schedule 4.

“Trademarks”: (i) all trademarks, trade names, corporate names, company names, business names, domain names, fictitious business names, trade styles, service marks, logos and other source or business identifiers, and all goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, or otherwise, and all common-law rights related thereto, including, without limitation, any of the foregoing referred to in Schedule 4, and (ii) the right to obtain all renewals thereof.

“Vehicles”: all cars, trucks, trailers, construction and earth moving equipment and other vehicles covered by a certificate of title law of any state.

1.2 Other Definitional Provisions. (a) The words “hereof,” “herein,” “hereto” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section and Schedule references are to this Agreement unless otherwise specified.

(b) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(c) Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor’s Collateral or the relevant part thereof.

## SECTION 2. GUARANTEE

2.1 Guarantee. (a) Each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees to the Administrative Agent for the ratable benefit of the Administrative Agent, the other Secured Parties and their respective permitted successors, indorsees, transferees and assigns, the prompt and complete payment and performance by the Borrower when due (whether at the stated maturity, by acceleration or otherwise) of the Borrower Obligations.

(b) Anything herein or in any other Loan Document to the contrary notwithstanding, the maximum liability of each Guarantor hereunder and under the other Loan Documents shall in no event exceed the maximum amount for which such Guarantor can be liable without rendering this guarantee or any other Loan Document, as it relates to such Guarantor, subject to avoidance under applicable law relating to fraudulent conveyance or fraudulent transfer (including Section 548 of the Bankruptcy Code or any applicable provisions of comparable state law) (collectively, “Fraudulent Transfer Laws”), in each case after giving effect (a) to all other liabilities of such Guarantor, contingent or otherwise, that are relevant under such Fraudulent Transfer Laws (specifically excluding, however, any liabilities of such Guarantor in respect of intercompany Indebtedness to the Borrower to the extent that such Indebtedness would be discharged in an amount equal to the amount paid by such Guarantor hereunder) and (b) to the value as assets of such Guarantor (as determined under the applicable provisions of such Fraudulent Transfer Laws)

of any rights to subrogation, contribution, reimbursement, indemnity or similar rights held by such Guarantor pursuant to (i) applicable Requirements of Law, (ii) Section 2.2 of this Agreement or (iii) any other Contractual Obligations providing for an equitable allocation among such Guarantor and other Subsidiaries or Affiliates of the Borrower of obligations arising under this Agreement or other guaranties of the Obligations by such parties.

(c) Each Guarantor agrees that the Borrower Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing the guarantee contained in this Section 2 or affecting the rights and remedies of the Administrative Agent or any other Secured Party hereunder.

(d) The guarantee contained in this Section 2 shall remain in full force and effect until all the Borrower Obligations and the obligations of each Guarantor under the guarantee contained in this Section 2 shall have been satisfied by payment in full (other than Borrower Hedge Agreement Obligations, Cash Management Obligations and other than contingent or indemnification obligations not then due), no Letter of Credit (that is not cash collateralized or back-stopped to the reasonable satisfaction of the Issuing Lender or purchasing Lender, as applicable, in respect thereof) shall be outstanding and the Commitments shall have been terminated, notwithstanding that from time to time during the term of the Credit Agreement the Borrower may be free from any Borrower Obligations.

(e) No payment (other than payment in full in cash) made by the Borrower, any of the Guarantors, any other guarantor or any other Person or received or collected by the Administrative Agent or any other Secured Party from the Borrower, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Borrower Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder which shall, notwithstanding any such payment (other than any payment made by such Guarantor in respect of the Borrower Obligations or any payment received or collected from such Guarantor in respect of the Borrower Obligations), remain liable for the Borrower Obligations up to the maximum liability of such Guarantor hereunder until the Borrower Obligations shall have been paid in full (other than Borrower Hedge Agreement Obligations, Cash Management Obligations and other than contingent or indemnification obligations not then due), no Letter of Credit (that is not cash collateralized or back-stopped to the reasonable satisfaction of the Issuing Lender or purchasing Lender, as applicable, in respect thereof) shall be outstanding and the Commitments shall have been terminated.

2.2 Right of Contribution. To the extent that any Guarantor shall be required hereunder to pay a portion of the Obligations exceeding the greater of (a) the amount of the economic benefit actually received by such Subsidiary Guarantor from the Loans and the other financial accommodations provided to the Borrower under the Loan Documents and (b) the amount such Guarantor would otherwise have paid if such Guarantor had paid the aggregate amount of the Obligations (excluding the amount thereof repaid by the Borrower or another Guarantor) in the same proportion as such Guarantor's net worth at the date enforcement is sought hereunder bears to the aggregate net worth of all the Guarantors at the date enforcement is sought hereunder, then such Guarantor shall be reimbursed by such other Guarantors for the amount of such excess, pro rata, based on the respective net worths of such other Guarantors at the date enforcement hereunder is sought. Each Guarantor's right of contribution shall be subject to the terms and conditions of Section 2.3. The provisions of this Section 2.2 shall in no respect limit the obligations and liabilities of any Guarantor to the Administrative Agent and the other

Secured Parties, and each Guarantor shall remain liable to the Administrative Agent and the other Secured Parties for the full amount guaranteed by such Guarantor hereunder.

2.3 No Subrogation. Notwithstanding any payment made by any Guarantor hereunder or any set-off or application of funds of any Guarantor by the Administrative Agent or any other Secured Party, no Guarantor shall be entitled to be subrogated to any of the rights of the Administrative Agent or any other Secured Party against the Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by the Administrative Agent or any other Secured Party for the payment of the Borrower Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from the Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder, until all amounts owing to the Administrative Agent and the other Secured Parties by the Borrower on account of the Borrower Obligations shall have been paid in full (other than Borrower Hedge Agreement Obligations, Cash Management Obligations and other than contingent or indemnification obligations not then due), no Letter of Credit (that is not cash collateralized or back-stopped to the reasonable satisfaction of the Issuing Lender or purchasing Lender, as applicable, in respect thereof) shall be outstanding and the Commitments shall have been terminated. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of such Borrower Obligations shall not have been paid in full, such amount shall be held by such Guarantor in trust for the Administrative Agent and the other Secured Parties, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Administrative Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Administrative Agent, if required), to be applied against the Borrower Obligations, whether matured or unmatured, in such order as the Administrative Agent may determine.

2.4 Amendments, etc. with respect to the Borrower Obligations. Each Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Guarantor and without notice to or further assent by any Guarantor, any demand for payment of any of the Borrower Obligations made by the Administrative Agent or any other Secured Party may be rescinded by the Administrative Agent or such other Secured Party and any of the Borrower Obligations continued, and the Borrower Obligations, or the liability of any other Person upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Administrative Agent or any other Secured Party, and the Credit Agreement and the other Loan Documents and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders or all Lenders, as the case may be) may deem advisable from time to time, and any collateral security, guarantee or right of offset at any time held by the Administrative Agent or any other Secured Party for the payment of the Borrower Obligations may be sold, exchanged, waived, surrendered or released. Neither the Administrative Agent nor any other Secured Party shall have any obligation to protect, secure, perfect or insure any Subject Lien at any time held by it as security for the Borrower Obligations or for the guarantee contained in this Section 2 or any property subject thereto.

2.5 Guarantee Absolute and Unconditional. Each Guarantor waives any and all notice of the creation, renewal, extension or accrual of any of the Borrower Obligations and notice of or proof of reliance by the Administrative Agent or any other Secured Party upon the guarantee contained in this Section 2 or acceptance of the guarantee contained in this Section 2; the Borrower Obligations, and any of them, shall conclusively be deemed to have been created,

contracted or incurred, or renewed, extended, amended or waived, in reliance upon the guarantee contained in this Section 2; and all dealings between the Borrower and any of the Guarantors, on the one hand, with respect to the Loan Documents and the Administrative Agent and the other Secured Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the guarantee contained in this Section 2. Each Guarantor waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon the Borrower or any of the Guarantors with respect to the Borrower Obligations. Each Guarantor understands and agrees that the guarantee of such Guarantor contained in this Section 2 shall be construed as a continuing, absolute and unconditional guarantee of payment without regard to (a) the validity or enforceability of the Credit Agreement or any other Loan Document, any of the Borrower Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Administrative Agent or any Lender, (b) any defense, set-off or counterclaim (other than a defense of payment or performance) which may at any time be available to or be asserted by the Borrower or any other Person against the Administrative Agent or any other Secured Party, (c) any change in the corporate existence, structure or ownership of the Borrower or any of the Guarantors or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Borrower or any of the Guarantors or their assets or any resulting release or discharge of any Obligation, (d) any law, regulation, decree or order of any jurisdiction, or any other event, affecting any term of any Obligation or (e) any other circumstance whatsoever (other than a defense of payment or performance) (with or without notice to or knowledge of the Borrower or any Guarantor) which constitutes, or might be construed to constitute, an equitable or legal discharge of the Borrower for the Borrower Obligations, or of such Guarantor under the guarantee of such Guarantor contained in this Section 2, in bankruptcy or in any other instance. When making any demand hereunder or otherwise pursuing its rights and remedies hereunder against any Guarantor, the Administrative Agent or any other Secured Party may, but shall be under no obligation to, make a similar demand on or otherwise pursue such rights and remedies as it may have against the Borrower, any other Guarantor or any other Person or against any collateral security or guarantee for the Borrower Obligations or any right of offset with respect thereto, and any failure by the Administrative Agent or any other Secured Party to make any such demand, to pursue such other rights or remedies or to collect any payments from the Borrower, any other Guarantor or any other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of the Borrower, any other Guarantor or any other Person or any such collateral security, guarantee or right of offset, shall not relieve any Guarantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Administrative Agent or any other Secured Party against any Guarantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.

2.6 Reinstatement. The guarantee contained in this Section 2 shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Borrower Obligations is rescinded or must otherwise be restored or returned by the Administrative Agent or any other Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payments had not been made.

2.7 Payments. Each Guarantor hereby guarantees that payments hereunder will be paid to the Administrative Agent without set-off or counterclaim in Dollars at the Funding Office.

SECTION 3. GRANT OF SECURITY INTEREST

3.1 Grant of First Priority Security Interests. Each Grantor hereby grants to the Administrative Agent, for the ratable benefit of the Secured Parties, a security interest ("Subject Liens") in all of the following property now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Collateral"), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of such Grantor's Obligations:

- (a) all Accounts;
- (b) all Chattel Paper;
- (c) all Documents;
- (d) all Equipment;
- (e) all General Intangibles;
- (f) all Goods not covered by the other clauses of this Section 3;
- (g) all Instruments, including the Pledged Notes;
- (h) all Intellectual Property;
- (i) all Inventory;
- (j) all Investment Property, including the Pledged Stock;
- (k) all Commercial Tort Claims;
- (l) all other tangible and intangible personal property not otherwise described above;
- (m) all books and records pertaining to the Collateral; and

(n) to the extent not otherwise included, all Proceeds and products of any of the Collateral and products of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing;

provided, however, that with respect to Holdings only, "Collateral" shall be limited to Investment Property issued by the Borrower and all dividends, cash, instruments and other property or Proceeds, from time to time received by, receivable by or otherwise distributed to Holdings in respect of or in exchange for such Investment Property;

provided, further, that notwithstanding any of the other provisions set forth in this Section 3.1, this Agreement shall not constitute a grant of a security interest in (i) any leasehold interest in real property (and any Fixtures relating thereto) and any Fixtures relating to any owned real property to the extent that the Administrative Agent is not entitled to a security interest with respect to such owned real property under the terms of the Credit Agreement, (ii) any Vehicles, (iii) any property to the extent that such grant of a security interest is prohibited by any Requirements of Law of a Governmental Authority, requires a consent not obtained of any Governmental

Authority pursuant to such Requirement of Law or is prohibited by, or constitutes a breach or default under or results in the termination of or requires any consent not obtained under, any contract, license, agreement, instrument or other document evidencing or giving rise to such property or, in the case of any Investment Property, any Pledged Security, any applicable shareholder or similar agreement, except to the extent that such Requirement of Law or the term in such contract, license, agreement, instrument or other document or shareholder or similar agreement providing for such prohibition, breach, default or termination or requiring such consent is ineffective under the New York UCC or other applicable law, (iv) any Collateral that constitutes Equipment subject to a certificate of title statute, Farm Products, Accessions, Letter-of-Credit Rights (other than Letter-of-Credit Rights that constitute Supporting Obligations) and As-Extracted Collateral and (v) Deposit Accounts, Securities Accounts and Commodities Accounts (except to the extent the same constitute Proceeds of other Collateral). It is hereby understood and agreed that any Property described in the preceding proviso, and any Property that is otherwise expressly excluded from clauses (a) through (n) above, shall be excluded from the definition of "Collateral".

#### SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Secured Parties to enter into the Credit Agreement and to induce the Lenders to make their respective extensions of credit to the Borrower, each Guarantor and each Grantor hereby represents and warrants to each of the Administrative Agent and each other Secured Party that:

4.1 Representations in Credit Agreement. In the case of each Guarantor, the representations and warranties set forth in Section 4 of the Credit Agreement to the extent they refer to such Guarantor or to the Loan Documents to which such Guarantor is a party, each of which is hereby incorporated herein by reference, are true and correct in all material respects, and each of the Administrative Agent and each other Secured Party shall be entitled to rely on each of them as if they were fully set forth herein; provided that each reference in each such representation and warranty to the Borrower's knowledge shall, for the purposes of this Section 4.1, be deemed to be a reference to such Guarantor's knowledge.

4.2 Title; No Other Liens. Except as otherwise permitted under Section 7.3 of the Credit Agreement, such Grantor owns or has rights in each item of the Collateral free and clear of any and all Liens. Except as otherwise permitted under Section 7.3 of the Credit Agreement, no financing statement or other public notice with respect to all or any part of the Collateral is on file or of record in any public office except financing statements that have been filed without the consent of the Grantor. For the avoidance of doubt, it is understood and agreed that any Grantor may, as part of its business, grant licenses to third parties to use Intellectual Property owned, licensed or developed by a Grantor. For purposes of this Agreement and the other Loan Documents, such licensing activity shall not constitute a "Lien" on such Intellectual Property. Each of the Administrative Agent and each other Secured Party understands that any such licenses may be exclusive to the applicable licensee, and such exclusivity provisions may limit the ability of the Administrative Agent to utilize, sell, lease or transfer the related Intellectual Property or otherwise realize value from such Intellectual Property pursuant hereto.

4.3 Names; Jurisdiction of Organization; Chief Executive Office. On the date hereof, such Grantor's full and correct legal name, jurisdiction of organization and identification number from the jurisdiction of organization (if any) are specified on Schedule 3.

4.4 Pledged Securities. On the date hereof, the shares of Pledged Stock pledged by such Grantor hereunder:

(a) with respect to the shares of Pledged Stock issued by the Borrower and any other Restricted Subsidiary, have been duly authorized, validly issued and are fully paid and non-assessable, to the extent such concepts are applicable; and

(b) constitute all the issued and outstanding shares of all classes of the Capital Stock of each Issuer owned by such Grantor or, in the case of Foreign Subsidiary Voting Stock, 65% of the outstanding Foreign Subsidiary Voting Stock of each relevant Issuer.

4.5 Intellectual Property.

(a) Schedule 4 lists all material Intellectual Property owned by such Grantor (other than Holdings) in its own name on the date hereof.

(b) Except as set forth in Schedule 6, on the date hereof, none of the Intellectual Property is the subject of any licensing or franchise agreement pursuant to which such Grantor (other than Holdings) is the licensor or franchisor.

## SECTION 5. COVENANTS

Each Guarantor and each Grantor covenants and agrees with the Administrative Agent and the other Secured Parties that, from and after the date of this Agreement until the Obligations shall have been paid in full (other than Borrower Hedge Agreement Obligations, Cash Management Obligations and other than contingent and indemnification obligations not yet due and owing), no Letter of Credit (that is not cash collateralized or back-stopped to the reasonable satisfaction of the Issuing Lender or purchasing Lender, as applicable, in respect thereof) shall be outstanding and the Commitments shall have been terminated:

5.1 Covenants in Credit Agreement. In the case of each Guarantor, to the extent applicable, such Guarantor shall take, or shall refrain from taking, as the case may be, each action that is necessary to be taken or not taken, as the case may be, so that no Default or Event of Default is caused by the failure to take such action or to refrain from taking such action by such Guarantor or any of its Subsidiaries.

5.2 Investment Property. (a) If such Grantor shall become entitled to receive or shall receive any certificate (including, without limitation, any certificate representing a dividend or a distribution in connection with any reclassification, increase or reduction of capital or any certificate issued in connection with any reorganization), option or rights in respect of the Capital Stock of any Issuer (or, with respect to Holdings, in respect of the Capital Stock issued by the Borrower only) whether in addition to, in substitution of, as a conversion of, or in exchange for, any shares of the Pledged Stock, or otherwise in respect thereof, such Grantor shall accept the same as the agent of the Administrative Agent and the Secured Parties, hold the same in trust for the Administrative Agent and the Secured Parties and deliver the same forthwith to the Administrative Agent in the exact form received, duly indorsed by such Grantor to the Administrative Agent, if required, together with an undated stock power covering such certificate duly executed in blank by such Grantor and with, if the Administrative Agent so requests, signature guaranteed, to be held by the Administrative Agent, subject to the terms hereof, as additional collateral security for the Obligations.

(b) In the case of each Grantor which is an Issuer, such Issuer agrees that (a) it will be bound by the terms of this Agreement relating to the Pledged Securities issued by it and will comply with such terms insofar as such terms are applicable to it and (b) the terms of Sections 6.3(c) and 6.8 shall apply to it, mutatis mutandis, with respect to all actions that may be required of it pursuant to Section 6.3(c) or 6.8 with respect to the Pledged Securities issued by it.

(c) Each Issuer that is a partnership or a limited liability company will notify the Administrative Agent in advance of (i) taking action to cause or permit any such equity interest to become a "security" within the meaning of Sections 8-102 and 8-103 of the New York UCC (a "Security") or (ii) issuing any certificate representing any such equity interest. If any such equity interest shall be or become a Security, such Issuer will (and the Grantor that holds such equity interest hereby instructs such Issuer to) comply with instructions originated by the Administrative Agent without further consent by such Grantor.

5.3 Commercial Tort Claims. In the case of each Grantor (other than Holdings), such Grantor shall, promptly upon obtaining knowledge thereof, give notice to the Administrative Agent of any Commercial Tort Claim of such Grantor in which the damages being sought exceed \$5,000,000 and shall grant to the Administrative Agent, for the ratable benefit of the Secured Parties, a first priority security interest in such Commercial Tort Claim. After such grant, such commercial tort claim shall be deemed to constitute Collateral for purposes of this Agreement.

5.4 Foreign Law Pledges. Except to the extent required by the Credit Agreement, notwithstanding anything to the contrary contained herein, no Grantor shall be required to take any actions in order to perfect the security interest granted to the Administrative Agent for the ratable benefit of the Secured Parties under the laws of any jurisdiction outside the United States.

5.5 Intellectual Property. Whenever such Grantor (other than Holdings), either by itself or through any agent, employee, licensee or designee, shall file an application for the registration of any material Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, such Grantor shall report such filing to the Administrative Agent together with its delivery of a compliance certificate pursuant to section 6.2(b) of the Credit Agreement. Upon request of the Administrative Agent, such Grantor shall execute and deliver, and have recorded, any and all agreements, instruments, documents, and papers as necessary to evidence the Administrative Agent's and the Secured Parties' security interest in any Copyright, Patent or Trademark and the goodwill and general intangibles of such Grantor relating thereto or represented thereby.

## SECTION 6. REMEDIAL PROVISIONS

### 6.1 Certain Matters Relating to Receivables.

(a) At any time during the continuance of an Event of Default, upon the Administrative Agent's reasonable request at the expense of the relevant Grantor (other than Holdings), such Grantor shall cause independent public accountants or others satisfactory to the Administrative Agent to furnish to the Administrative Agent reports showing reconciliations, aging and test verifications of, and trial balances for, the Receivables.

(b) If required by the Administrative Agent at any time after the occurrence and during the continuance of an Event of Default under Section 8(a) or 8(f) of the Credit Agreement, any payments of Receivables, when collected by any Grantor (other than Holdings), (i) shall be

forthwith (and, in any event, within two Business Days) deposited by such Grantor in the exact form received, duly indorsed by such Grantor to the Administrative Agent if so required, in a Control Account maintained under the sole dominion and control of the Administrative Agent, subject to withdrawal by the Administrative Agent for the account of the Administrative Agent and the other Secured Parties only as provided in Section 6.6, and (ii) until so turned over, shall be held by such Grantor in trust for the Administrative Agent and the other Secured Parties, segregated from other funds of such Grantor. Each such deposit of Proceeds of Receivables shall be accompanied by a report identifying in reasonable detail the nature and source of the payments included in the deposit.

(c) If an Event of Default has occurred and is continuing and at the Administrative Agent's request, each Grantor (other than Holdings) shall deliver to the Administrative Agent all documents evidencing, and relating to, the agreements and transactions which gave rise to the Receivables, including, without limitation, all orders, invoices and shipping receipts.

#### 6.2 Communications with Grantors; Grantors Remain Liable.

(a) Upon the request of the Administrative Agent at any time after the occurrence and during the continuance of an Event of Default under Section 8(a) or 8(f) of the Credit Agreement, each Grantor (other than Holdings) shall notify obligors on the Receivables that the Receivables have been assigned to the Administrative Agent for the ratable benefit of the Secured Parties and that payments in respect thereof shall be made directly to the Administrative Agent.

(b) Anything herein to the contrary notwithstanding, each Grantor (other than Holdings) shall remain liable under the Receivables to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise thereto. Neither the Administrative Agent nor any other Secured Party shall have any obligation or liability under any Receivable (or any agreement giving rise thereto) by reason of or arising out of this Agreement or the receipt by the Administrative Agent or any other Secured Party of any payment relating thereto, nor shall the Administrative Agent or any other Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Receivable (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party thereunder, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

6.3 Pledged Securities. (a) Unless an Event of Default shall have occurred and be continuing and the Administrative Agent shall have given notice to the relevant Grantor of the Administrative Agent's intent to exercise its corresponding rights pursuant to Section 6.3(b), each Grantor shall be permitted to receive all cash dividends paid in respect of the Pledged Stock and all payments made in respect of the Pledged Notes to the extent permitted in the Credit Agreement, and to exercise all voting and corporate rights with respect to the Pledged Securities.

(b) If an Event of Default shall occur and be continuing and the Administrative Agent shall give notice of its intent to exercise such rights to the relevant Grantor or Grantors, (i) unless otherwise provided in the Credit Agreement, the Administrative Agent shall have the right to receive any and all cash dividends, payments or other Proceeds paid in respect of the Pledged Securities and make application thereof to the Obligations in the order set forth in Section 6.6, and (ii) any or all of the Pledged Securities shall be registered in the name of the Administrative Agent or its nominee, and the Administrative Agent or its nominee may thereafter exercise (x) all

voting, corporate and other rights pertaining to such Pledged Securities at any meeting of shareholders of the relevant Issuer or Issuers or otherwise and (y) any and all rights of conversion, exchange and subscription and any other rights, privileges or options pertaining to such Pledged Securities as if it were the absolute owner thereof (including, without limitation, the right to exchange at its discretion any and all of the Pledged Securities upon the merger, consolidation, reorganization, recapitalization or other fundamental change in the corporate structure of any Issuer, or upon the exercise by any Grantor or the Administrative Agent of any right, privilege or option pertaining to such Pledged Securities, and in connection therewith, the right to deposit and deliver any and all of the Pledged Securities with any committee, depository, transfer agent, registrar or other designated agency upon such terms and conditions as the Administrative Agent may determine), all without liability except to account for property actually received by it, but the Administrative Agent shall have no duty to any Grantor to exercise any such right, privilege or option and shall not be responsible for any failure to do so or delay in so doing unless the Administrative Agent has given notice of its intent to exercise as set forth above.

(c) Each Grantor hereby authorizes and instructs each Issuer of any Pledged Securities pledged by such Grantor hereunder to comply with any instruction received by it from the Administrative Agent in writing that (x) states that an Event of Default has occurred and is continuing and (y) is otherwise in accordance with the terms of this Agreement, without any other or further instructions from such Grantor, and each Grantor agrees that each Issuer shall be fully protected in so complying.

#### 6.4 Intellectual Property.

(i) For the purpose of enabling the Administrative Agent to exercise rights and remedies under Section 6 at such time as the Administrative Agent shall be lawfully entitled to exercise such rights and remedies, and for no other purpose, each Grantor (other than Holdings) hereby grants to the Administrative Agent, to the extent assignable, an irrevocable, non exclusive license (exercisable without payment of royalty or other compensation to such Grantor) to use, assign, license or sublicense any of the Intellectual Property now owned or hereafter acquired by such Grantor, wherever the same may be located.

(ii) Notwithstanding anything contained herein to the contrary, but subject to the provisions of Section 7.5 of the Credit Agreement that limit the rights of the Grantors to dispose of their property, notwithstanding the foregoing but subject to the Administrative Agent's exercise of its rights and remedies under Section 6, the Grantors will be permitted to exploit, use, enjoy, protect, license, sublicense, assign, sell, dispose of or take other actions with respect to the Intellectual Property in the ordinary course of the business of the Grantors. In furtherance of the foregoing, so long as no Event of Default shall have occurred and be continuing, the Administrative Agent shall from time to time, upon the request of the respective Grantor (through the Borrower), execute and deliver any instruments, certificates or other documents, in the form so requested, that such Grantor (through the Borrower) shall have certified are appropriate in its judgment to allow it to take any action permitted above (including relinquishment of the license provided pursuant to clause (i) immediately above as to any specific Intellectual Property). Further, upon the payment in full in cash of all of the Obligations (other than Borrower Hedge Agreement Obligations, Cash Management Obligations and other than contingent or indemnification obligations not then due) and cancellation or termination of all Commitments and Letters of Credit (that are not cash collateralized or back-stopped to the reasonable satisfaction of the Issuing Lender or purchasing Lender, as applicable, in

respect thereof) or earlier expiration of this Agreement or release of the Collateral, the Administrative Agent shall grant back to the Grantors the license granted pursuant to clause (i) immediately above. The exercise of rights and remedies under Section 6 by the Administrative Agent shall not terminate the rights of the holders of any licenses or sublicenses theretofore granted by the Grantors in accordance with the first sentence of this clause (ii).

6.5 Proceeds to be Turned Over To Administrative Agent. If an Event of Default shall occur and be continuing and the Loans shall have been accelerated pursuant to Section 8 of the Credit Agreement, all Proceeds received by any Grantor consisting of cash, checks and other near-cash items shall be held by such Grantor in trust for the Administrative Agent and the other Secured Parties, segregated from other funds of such Grantor, and shall, promptly upon receipt by such Grantor, be turned over to the Administrative Agent in the exact form received by such Grantor (duly indorsed by such Grantor to the Administrative Agent, if required). All Proceeds received by the Administrative Agent hereunder shall be held by the Administrative Agent in a Collateral Account maintained under its sole dominion and control. All Proceeds while held by the Administrative Agent in a Collateral Account (or by such Grantor in trust for the Administrative Agent and the other Secured Parties) shall continue to be held as collateral security for all of the Obligations and shall not constitute payment thereof until applied as provided in Section 6.6.

6.6 Application of Proceeds. If an Event of Default shall have occurred and be continuing and the Loans shall have been accelerated pursuant to Section 8 of the Credit Agreement, at any time at the Administrative Agent's election, the Administrative Agent may apply all or any part of Proceeds constituting Collateral and any proceeds of the guarantee set forth in Section 2, in payment of the Obligations, and shall make any such application in the following order:

First, to pay incurred and unpaid reasonable, out-of-pocket fees and expenses of the Agents under the Loan Documents;

Second, to the Administrative Agent, for application by it towards payment of amounts then due and owing and remaining unpaid in respect of the Obligations, pro rata among the Secured Parties according to the amounts of the Obligations then due and owing and remaining unpaid to the Secured Parties; and

Third, any balance of such Proceeds remaining after the Obligations shall have been paid in full (other than contingent or indemnification obligations not then due), no Letter of Credit (that is not cash collateralized or backstopped to the reasonable satisfaction of the Issuing Bank or purchasing Lender, as applicable, in respect thereof) shall be outstanding and the Commitments shall have been terminated, shall be paid to the Borrower or to whomever may be lawfully entitled to receive the same.

6.7 Code and Other Remedies. If an Event of Default shall occur and be continuing, the Administrative Agent, on behalf of itself and the other Secured Parties, may exercise, in addition to all other rights and remedies granted to them in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of a secured party under the New York UCC or any other applicable law. Without limiting the generality of the foregoing, the Administrative Agent, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below or notices otherwise provided in the Loan

Documents) to or upon any Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived unless otherwise provided in the Loan Documents), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Administrative Agent or any other Secured Party or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Administrative Agent or any other Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Grantor, which right or equity is hereby waived and released. Each Grantor further agrees, at the Administrative Agent's request, to assemble the Collateral and make it available to the Administrative Agent at places which the Administrative Agent shall reasonably select, whether at such Grantor's premises or elsewhere. The Administrative Agent shall apply the net proceeds of any action taken by it pursuant to Section 6.6, after deducting all reasonable costs and expenses of every kind actually incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Administrative Agent and the other Secured Parties hereunder, including, without limitation, reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Obligations, in such order as the Administrative Agent may elect, and only after such application and after the payment by the Administrative Agent of any other amount required by any provision of law, including, without limitation, Section 9-615(a)(3) of the New York UCC, need the Administrative Agent account for the surplus, if any, to any Grantor. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Administrative Agent or any Secured Party arising out of the exercise by them of any rights hereunder, other than any such claims, damages or demands that have resulted from the gross negligence or willful misconduct of the Administrative Agent. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition.

6.8 Private Sales. Each Grantor recognizes that the Administrative Agent may be unable to effect a public sale of any or all the Pledged Stock, by reason of certain prohibitions contained in the Securities Act and applicable state securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for their own account for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner. The Administrative Agent shall be under no obligation to delay a sale of any of the Pledged Stock for the period of time necessary to permit the Issuer thereof to register such securities for public sale under the Securities Act, or under applicable state securities laws, even if such Issuer would agree to do so.

6.9 Deficiency. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Obligations and the reasonable fees and disbursements of any attorneys employed by the Administrative Agent to collect such deficiency.

7.1 Administrative Agent's Appointment as Attorney-in-Fact, etc.

(a) Each Grantor hereby irrevocably constitutes and appoints the Administrative Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Administrative Agent the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following; provided, that anything in this Section 7.1(a) to the contrary notwithstanding, the Administrative Agent agrees that it will not exercise any rights under the power of attorney provided for in this Section 7.1(a) unless an Event of Default shall have occurred and be continuing):

(i) in the name of such Grantor (other than Holdings) or its own name, or otherwise, take possession of and indorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under any Receivable or with respect to any other Collateral and file any claim or take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by the Administrative Agent for the purpose of collecting any and all such moneys due under any Receivable or with respect to any other Collateral whenever payable;

(ii) in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Administrative Agent may request to evidence the Administrative Agent's and the other Secured Parties' security interest in such Intellectual Property and the goodwill and general intangibles of such Grantor (other than Holdings) relating thereto or represented thereby;

(iii) pay or discharge taxes and Liens (as defined in the Credit Agreement) levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement and pay all or any part of the premiums therefor and the costs thereof;

(iv) execute, in connection with any sale provided for in Section 6.7 or 6.8, any indorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral; and

(v) (1) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Administrative Agent or as the Administrative Agent shall direct; (2) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (3) sign and indorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (4) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of

any Collateral; (5) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (6) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Administrative Agent may deem appropriate; (7) assign any Copyright, Patent or Trademark (along with the goodwill of the business to which any such Copyright, Patent or Trademark pertains), throughout the world for such term or terms, on such conditions, and in such manner, as the Administrative Agent shall in its sole discretion determine; and (8) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Administrative Agent were the absolute owner thereof for all purposes, and do, at the Administrative Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Administrative Agent deems necessary to protect, preserve or realize upon the Collateral and the Administrative Agent's and the other Secured Parties' security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

(b) If any Grantor fails to perform or comply with any of its agreements contained herein, the Administrative Agent, at its option, but without any obligation so to do, may give such Grantor written notice of such failure to perform or comply and if such Grantor fails to perform or comply within three (3) Business Days of receiving such notice (or if the Administrative Agent reasonably determines that irreparable harm to the Collateral or to the security interest of the Administrative Agent hereunder could result prior to the end of such three-Business Day period), then the Administrative Agent may perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

7.2 Duty of Administrative Agent. To the extent permitted by law, the Administrative Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the New York UCC or otherwise, shall be to deal with it in the same manner as the Administrative Agent deals with similar property for its own account. None of the Administrative Agent, any other Secured Party or any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Administrative Agent and the other Secured Parties hereunder are solely to protect the Administrative Agent's and the other Secured Parties' interests in the Collateral and shall not impose any duty upon the Administrative Agent or any other Secured Party to exercise any such powers. The Administrative Agent and the other Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct or that of their directors, officers, employees or agents.

7.3 Execution of Financing Statements. Pursuant to any applicable law, each Grantor authorizes the Administrative Agent to file or record financing statements and other filing or recording documents or instruments with respect to the Collateral without the signature

of such Grantor in such form and in such offices as the Administrative Agent reasonably determines appropriate to perfect the security interests of the Administrative Agent under this Agreement. Each Grantor (other than Holdings) authorizes the Administrative Agent to use the collateral description “all personal property” or any similar phrase in any such financing statements. Notwithstanding anything herein or in any other Loan Document to the contrary, the delivery of control agreements with respect to any Deposit Accounts, Securities Accounts and Commodities Accounts shall not be required.

7.4 Authority of Administrative Agent. Each Grantor acknowledges that the rights and responsibilities of the Administrative Agent under this Agreement with respect to any action taken by the Administrative Agent or the exercise or non-exercise by the Administrative Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as among the Administrative Agent and the other Secured Parties, be governed by the Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Administrative Agent and the Grantors, the Administrative Agent shall be conclusively presumed to be acting as agent for the Administrative Agent and the other Secured Parties with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

## SECTION 8. MISCELLANEOUS

8.1 Amendments in Writing. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 10.1 of the Credit Agreement.

8.2 Notices. All notices, requests and demands to or upon the Administrative Agent or any Grantor hereunder shall be effected in the manner provided for in Section 10.2 of the Credit Agreement; provided that any such notice, request or demand to or upon any Guarantor shall be addressed to such Guarantor at its notice address set forth on Schedule 1.

8.3 No Waiver by Course of Conduct; Cumulative Remedies. Neither the Administrative Agent nor any other Secured Party shall by any act (except by a written instrument pursuant to Section 8.1), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. No failure to exercise, nor any delay in exercising, on the part of the Administrative Agent or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Administrative Agent or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Administrative Agent or such other Secured Party would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

8.4 Enforcement Expenses; Indemnification. Each Guarantor agrees to pay, and to save the Administrative Agent and the other Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement to the extent the Borrower would be required to do so pursuant to Section 10.5 of the Credit Agreement. The agreements in this

Section 8.4 shall survive repayment of the Obligations and all other amounts payable under the Credit Agreement and the other Loan Documents.

8.5 Successors and Assigns. This Agreement shall be binding upon the successors and assigns of each Grantor and shall inure to the benefit of the Administrative Agent and the other Secured Parties and their successors and assigns; provided, that no Grantor may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Administrative Agent (it being understood that Dispositions permitted under the Credit Agreement shall not be subject to this proviso).

8.6 Set-Off. Each Grantor (other than Holdings) hereby irrevocably authorizes the Administrative Agent and each other Secured Party at any time and from time to time while an Event of Default shall have occurred and be continuing, without notice to such Grantor or any other Grantor, any such notice being expressly waived by each Grantor, to the extent permitted by applicable law, upon any amount becoming due and payable by each Grantor (whether at the stated maturity, by acceleration or otherwise after the expiration of any applicable grace periods) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final but excluding trust accounts), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by the Administrative Agent, such other Secured Party or any of their Affiliates to or for the credit or the account of such Grantor. Each of the Administrative Agent and each other Secured Party shall notify such Grantor promptly of any such set-off made by it and the application made by it of the proceeds thereof, provided that the failure to give such notice shall not affect the validity of such set-off and application.

8.7 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

8.8 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.9 Section Headings. The Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

8.10 Integration. This Agreement and the other Loan Documents represent the agreement of the Grantors, the Administrative Agent and the other Secured Parties with respect to the subject matter hereof and thereof.

8.11 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

8.12 Submission To Jurisdiction; Waivers. Each party hereto hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non exclusive general jurisdiction of the Courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Grantor at its address referred to in Section 8.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

8.13 Acknowledgements. Each Grantor hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party;

(b) neither the Administrative Agent nor any other Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Grantors, on the one hand, and the Administrative Agent and the other Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Administrative Agent and the Lenders or among the Grantors and the Administrative Agent and the Lenders.

8.14 Additional Grantors. Each Restricted Subsidiary of the Borrower that is required to become a party to this Agreement pursuant to Section 6.8 of the Credit Agreement shall become a Grantor for all purposes of this Agreement upon execution and delivery by such Restricted Subsidiary of an Assumption Agreement in the form of Annex I hereto.

8.15 Releases.

(a) At such time as the Loans, the Reimbursement Obligations and the other Obligations (other than Borrower Hedge Agreement Obligations, Cash Management Obligations and contingent or indemnification obligations not then due) shall have been paid in full in cash,

the Commitments shall have been terminated and no Letter of Credit (that is not cash collateralized or back-stopped to the reasonable satisfaction of the Issuing Lender or purchasing Lender, as applicable, in respect thereof) shall be outstanding, the Collateral shall be released from the Subject Liens created hereby, and this Agreement and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Grantor hereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to the Collateral shall revert to the Grantors. At the request and sole expense of any Grantor following any such termination, the Administrative Agent shall deliver to such Grantor any Collateral held by the Administrative Agent hereunder, and execute and deliver to such Grantor such documents as such Grantor shall reasonably request to evidence such termination.

(b) If any of the Collateral shall be sold, transferred or otherwise disposed of by any Grantor in a transaction permitted by the Credit Agreement, then the Administrative Agent, at the request and sole expense of such Grantor, shall execute and deliver to such Grantor all releases or other documents reasonably necessary or desirable for the release of the Subject Liens created hereby on such Collateral. At the request and sole expense of the Borrower, a Guarantor shall be released from its obligations hereunder in the event that all the Capital Stock of such Guarantor shall be sold, transferred or otherwise disposed of in a transaction permitted by the Credit Agreement.

8.16 WAIVER OF JURY TRIAL. EACH GRANTOR AND, BY ACCEPTANCE OF THE BENEFITS HEREOF, EACH OF THE ADMINISTRATIVE AGENT AND EACH OTHER SECURED PARTY, HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

*[Remainder of Page Intentionally Left Blank; Signature Pages Follow]*

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

CITICORP NORTH AMERICA, INC.,  
as Administrative Agent

By: /s/ Francesco A. DelVecchio  
Name: Francesco A. DelVecchio  
Title: Vice President

[Signature Page to Guarantee and Collateral Agreement]

ALLISON TRANSMISSION HOLDINGS, INC.

By: /s/ John L. Hazen

Name: John L. Hazen

Title: Chief Financial Officer

ALLISON TRANSMISSION, INC.

By: /s/ John L. Hazen

Name: John L. Hazen

Title: Chief Financial Officer

[Signature Page to Guarantee and Collateral Agreement]

NOTICE ADDRESSES OF GUARANTORS

4700 W. 10th Street  
Indianapolis, IN 46222

## DESCRIPTION OF INVESTMENT PROPERTY

**Pledged Stock:****Allison Transmission Holdings, Inc.:**

<u>Issuer</u>	<u>Class of Stock</u>	<u>Stock Certificate No.</u>	<u>No. of Shares</u>
Allison Transmission, Inc.	Common	2	1,000

**Allison Transmission, Inc.:**

<u>Issuer</u>	<u>Class of Stock</u>	<u>Stock Certificate No.</u>	<u>No. of Shares</u>
Allison Transmission Holdings Cooperatie, U.A.	N/A	Uncertificated	65% of Equity
Allison Transmission International, L.L.C.	N/A	Uncertificated	65% of Equity

**Pledged Notes:****Allison Transmission Holdings, Inc.:**

None.

**Allison Transmission, Inc.:**

None.

## LEGAL NAME, LOCATION OF JURISDICTION OF ORGANIZATION AND CHIEF EXECUTIVE OFFICE

<u>Grantor</u>	<u>Jurisdiction of Organization</u>	<u>Organizational Identification Number (if any)</u>
Allison Transmission Holdings, Inc.	Delaware	4375687
Allison Transmission, Inc.	Delaware	4375685

## DOMAIN NAMES

- allison-europe.com
- allison-trans.com
- allison-trans.net
- allison-trans.org
- allison-transmission.com
- allison-transmission.net
- allison-transmission.org
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- allison.biz
- allisonelectricdrive.com
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  - allisontransmission.com.py
  - allisontransmission.com.uy
  - allisontransmission.com.ve
  - allisontransmission.de
  - allisontransmission.es
  - allisontransmission.fr
  - allisontransmission.info
  - allisontransmission.it
  - allisontransmission.net
  - allisontransmission.nl
  - allisontransmission.org
  - allisontransmissions.com
  - allisontransmissions.net
  - allisontransmissions.org
  - allisontransmissionsucks.net
  - allisontransmissionsucks.org
  - allisontransmissionsucks.com
  - allisontransmissionsucks.com
  - allisontransmissionsucks.net
  - allisontransmissionsucks.org
  - allisontransucks.com
  - allisontransucks.net
  - allisontransucks.org
  - allison-transucks.com
  - allisonelearn.com

#### COPYRIGHTS

- See [Attachment A](#) hereto.
- All unregistered Copyrights used exclusively in the Business (excluding all Software).

#### TRADEMARKS

- See [Attachment B](#) hereto.
- All unregistered and common law rights to the following Marks, as used in connection with the Business:

##### **Logos:**

**International Series**

**Bus Series**

**Emergency Vehicle Series**

**Highway Series**

Motorhome Series  
Off-Road Series  
Oil Field Series  
Pupil Transport / Shuttle Series  
Rugged Duty Series  
Specialty Series  
Truck RV Series  
Logo Identity Guidelines  
Allison Transmission Express Lube  
Allison Approved Transmission Fluid TES-295 logo  
Allison Approved Transmission Fluid TES-389 logo  
Allison Automatic Genuine Parts logo  
Allison Automatic Genuine ReTran logo

**Product Names:**

- Allison 4<sup>th</sup> Generation Controls
- 1000 Product Family
  - 1000 Series
  - 1000
  - 1000EVS
  - 1000HS
  - 1000MH
  - 1000PTS
  - 1000RDS
  - 1000SP
- 2000 Product Family
  - 2000 Series
  - 2100
    - 2100EVS
    - 2100HS
    - 2100MH
    - 2100PTS
    - 2100RDS
    - 2100SP
  - 2200
    - 2200EVS
    - 2200HS
    - 2200MH
    - 2200PTS
    - 2200RDS
    - 2200SP
  - 2300
    - 2300HS
    - 2300RDS
  - 2350
    - 2350HS
    - 2350MH
    - 2350PTS
    - 2350RDS
    - 2350SP

- 
- 2400
  - 2500
    - 2500EVS
    - 2500HS
    - 2500MH
    - 2500PTS
    - 2500RDS
    - 2500SP
  - B210
  - B220
  - **3000 Product Family**
    - 3000 Series
    - 3000
      - 3000EVS
      - 3000HS
      - 3000MH
      - 3000PTS
      - 3000RDS
      - 3000SP
      - 3000TRV
    - 3200
      - 3200MH
      - 3200ORS
      - 3200SP
      - 3200TRV
    - 3500
      - 3500EVS
      - 3500ORS
      - 3500RDS
      - 3500SP
    - 3700
      - 3700SP
    - B300
    - B400
    - T200
      - T250
      - T260
      - T265
      - T270
      - T280
    - T300
      - T310
      - T325
      - T350
      - T375
      - T390
  - **4000 Product Family**
    - 4000 Series
    - 4000
      - 4000EVS
      - 4000HS

- 4000MH
  - 4000ORS
  - 4000RDS
  - 4000SP
  - 4000TRV
- 4200
  - 4200ORS
- 4500
  - 4500EVS
  - 4500HS
  - 4500OFS
  - 4500ORS
  - 4500RDS
  - 4500SP
- 4600
  - 4600ORS
- 4700
  - 4700EVS
  - 4700OFS
  - 4700RDS
  - 4700SP
- 4800
  - 4800EVS
  - 4800SP
- B500
- T400
  - T425
  - T450
- T500
  - T525
- X200
  - X200-4A
  - X200-4B
  - X200-4C
  - X200-5C
- X300
- X4560
- X1100
  - X1100-3B
  - X1100-5
- X5060
  - X5060-3
- Hauling
  - H5610
  - H6610
  - H8610
  - H9610
- Mobile
  - M5610
  - M6610

- M8610
- M9610
- Stationary
  - S5610
  - S6610
  - S8610
  - S9610
  - S9810
- Electric Drive
  - EP40
  - EP50
  - EP40/50 System
  - EP40/50 Series Electric Drive Propulsion System
- EV Drive
- HyEconomy
- HyGain
- HyPerformance
- HyStandard

**Taglines:**

- It's the transmission that makes the truck.
- If it's not Allison, it's not automatic.
- Change the way you move.
- Driving transmission technology.

**Advertising Design:**

- International "swirl" design – red, blue, military green]

**PATENTS AND PATENT LICENSES**

None.

ASSUMPTION AGREEMENT, dated as of \_\_\_\_\_, 200\_, made by \_\_\_\_\_ (the "Additional Grantor"), in favor of Citicorp North America, Inc., as administrative agent (in such capacity, the "Administrative Agent") for the banks and other financial institutions or entities (the "Lenders") parties to the Credit Agreement referred to below. All capitalized terms not defined herein shall have the meaning ascribed to them in such Credit Agreement.

W I T N E S S E T H :

WHEREAS, ALLISON TRANSMISSION HOLDINGS, INC. ("Holdings"), ALLISON TRANSMISSION, INC. (the "Borrower"), the Lenders, the Administrative Agent and CITICORP NORTH AMERICA INC., as administrative agent (in such capacity, the "Administrative Agent"), have entered into that certain Credit Agreement, dated as of August 7, 2007 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement");

WHEREAS, in connection with the Credit Agreement, the Borrower and certain of its Affiliates (other than the Additional Grantor) have entered into the Guarantee and Collateral Agreement, dated as of August 7, 2007 (as amended, supplemented or otherwise modified from time to time, the "Guarantee and Collateral Agreement") in favor of the Administrative Agent for the benefit of the Administrative Agent, the Collateral Agent and the Lenders;

WHEREAS, the Credit Agreement requires the Additional Grantor to become a party to the Guarantee and Collateral Agreement; and

WHEREAS, the Additional Grantor has agreed to execute and deliver this Assumption Agreement in order to become a party to the Guarantee and Collateral Agreement;

NOW, THEREFORE, IT IS AGREED:

1. Guarantee and Collateral Agreement. By executing and delivering this Assumption Agreement, the Additional Grantor, as provided in Section 8.14 of the Guarantee and Collateral Agreement, hereby becomes a party to the Guarantee and Collateral Agreement as a Grantor thereunder with the same force and effect as if originally named therein as a Grantor and, without limiting the generality of the foregoing, hereby expressly assumes all obligations and liabilities of a Grantor thereunder. The information set forth in Annex 1-A hereto is hereby added to the information set forth in the Schedules to the Guarantee and Collateral Agreement. The Additional Grantor hereby represents and warrants, to the extent applicable, that each of the representations and warranties contained in Section 4 of the Guarantee and Collateral Agreement is true and correct on and as of the date hereof (after giving effect to this Assumption Agreement) as if made on and as of such date.

2. GOVERNING LAW. THIS ASSUMPTION AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the undersigned has caused this Assumption Agreement to be duly executed and delivered as of the date first above written.

[ADDITIONAL GRANTOR]

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

Supplement to Schedule 1

Supplement to Schedule 2

Supplement to Schedule 3

Supplement to Schedule 4

## TRADEMARK SECURITY AGREEMENT

TRADEMARK SECURITY AGREEMENT (this "Agreement"), dated as of August 7, 2007, by ALLISON TRANSMISSION, INC. (formerly known as Clutch Operating Company, Inc.), a Delaware corporation (the "Grantor" and, collectively, the "Grantors"), in favor of CITICORP NORTH AMERICA, INC. ("Citi"), as agent for the Secured Parties (as defined in the Credit Agreement referred to below) (in such capacity, the "Administrative Agent").

**Witnesseth:**

WHEREAS, pursuant to the Credit Agreement, dated as of August 7, 2007 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among ALLISON TRANSMISSION HOLDINGS, INC. (formerly known as Clutch Holdings, Inc.), a Delaware corporation ("Holdings"), the Grantor, the several banks and other financial institutions or entities from time to time parties to this Agreement (the "Lenders"), CITI, as Administrative Agent and Collateral Agent, LEHMAN BROTHERS COMMERCIAL BANK and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Syndication Agents, SUMITOMO MITSUI BANKING CORPORATION, as Documentation Agent and Co-Arranger, and CITIGROUP GLOBAL MARKETS INC., LEHMAN BROTHERS INC. and MERRILL LYNCH & CO., MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Joint Lead Arrangers and Joint Bookrunners have severally agreed to make extensions of credit to the Borrower upon the terms and subject to the conditions set forth therein; and

WHEREAS, the Grantor is party to a Guarantee and Collateral Agreement of even date herewith in favor of the Administrative Agent (the "Collateral Agreement") pursuant to which the Grantor is required to execute and deliver this Agreement;

NOW, THEREFORE, in consideration of the premises and to induce the Lenders and the Administrative Agent to enter into the Credit Agreement and to induce the Lenders to make their respective extensions of credit to the Borrower thereunder, the Grantor hereby agrees with the Administrative Agent as follows:

**Section 1. Defined Terms**

Unless otherwise defined herein, terms defined in the Credit Agreement or in the Collateral Agreement and used herein have the meaning given to them in the Credit Agreement or the Collateral Agreement.

**Section 2. Grant of Security Interest in Trademark Collateral**

The Grantor, as collateral security for the full, prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Borrower Obligations of such Grantor, hereby mortgages, pledges and hypothecates to the Administrative Agent for the benefit of the Secured Parties, and grants to the Administrative Agent for the benefit of the Secured Parties a lien on and security interest in, all of its right, title and interest in, to and under the following Collateral of such Grantor (the "Trademark Collateral");

(a) all of its Trademarks and Trademark Licenses to which it is a party, including, without limitation, those referred to on *Schedule I* hereto;

(b) all goodwill of the business connected with the use of, and symbolized by, each Trademark; and

(c) all Proceeds of the foregoing, including, without limitation, any claim by Grantor against third parties for past, present, future (i) infringement or dilution of any Trademark or Trademark licensed under any Trademark License or (ii) injury to the goodwill associated with any Trademark or any Trademark licensed under any Trademark License.

***Section 3. Collateral Agreement***

The security interest granted pursuant to this Agreement is granted in conjunction with the security interest granted to the Administrative Agent pursuant to the Collateral Agreement and the Grantor hereby acknowledges and affirms that the rights and remedies of the Administrative Agent with respect to the security interest in the Trademark Collateral made and granted hereby are more fully set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each of the undersigned have caused this Agreement to be duly executed and delivered as of the date first set forth above.

ALLISON TRANSMISSION, INC.,  
*as Grantor*

By: /s/ John L. Hazen  
Name: John L. Hazen  
Title: Chief Financial Officer

ACCEPTED AND AGREED  
as of the date first above written:

CITICORP NORTH AMERICA, INC.,  
*as Administrative Agent*

By: /s/ Francesco A. DelVecchio  
Name: Francesco A. DelVecchio  
Title: Vice President

[SIGNATURE PAGE TO TRADEMARK SECURITY AGREEMENT]

**Schedule I**  
**to**  
**Trademark Security Agreement**

*Trademark Registrations*

- See Attachment A hereto.
- All unregistered and common law rights to the following Marks, as used in connection with the Business:

**Logos:**

**International Series**

**Bus Series**

**Emergency Vehicle Series**

**Highway Series**

**Motorhome Series**

**Off-Road Series**

**Oil Field Series**

**Pupil Transport / Shuttle Series**

**Rugged Duty Series**

**Specialty Series**

**Truck RV Series**

**Logo Identity Guidelines**

**Allison Transmission Express Lube**

**Allison Approved Transmission Fluid TES-295 logo**

**Allison Approved Transmission Fluid TES-389 logo**

**Allison Automatic Genuine Parts logo**

**Allison Automatic Genuine ReTran logo**

**Product Names:**

- **Allison 4<sup>th</sup> Generation Controls**
- **1000 Product Family**
  - **1000 Series**
  - **1000**
  - **1000EVS**
  - **1000HS**
  - **1000MH**
  - **1000PTS**
  - **1000RDS**
  - **1000SP**
- **2000 Product Family**
  - **2000 Series**
  - **2100**
    - **2100EVS**
    - **2100HS**
    - **2100MH**

- 
- 2100PTS
  - 2100RDS
  - 2100SP
  - 2200
    - 2200EVS
    - 2200HS
    - 2200MH
    - 2200PTS
    - 2200RDS
    - 2200SP
  - 2300
    - 2300HS
    - 2300RDS
  - 2350
    - 2350HS
    - 2350MH
    - 2350PTS
    - 2350RDS
    - 2350SP
  - 2400
  - 2500
    - 2500EVS
    - 2500HS
    - 2500MH
    - 2500PTS
    - 2500RDS
    - 2500SP
  - B210
  - B220
  - 3000 Product Family
    - 3000 Series
    - 3000
      - 3000EVS
      - 3000HS
      - 3000MH
      - 3000PTS
      - 3000RDS
      - 3000SP
      - 3000TRV
    - 3200
      - 3200MH
      - 3200ORS
      - 3200SP
      - 3200TRV
    - 3500
      - 3500EVS
      - 3500ORS
      - 3500RDS
      - 3500SP

- 3700
  - 3700SP
- B300
- B400
- T200
  - T250
  - T260
  - T265
  - T270
  - T280
- T300
  - T310
  - T325
  - T350
  - T375
  - T390
- 4000 Product Family
  - 4000 Series
  - 4000
    - 4000EVS
    - 4000HS
    - 4000MH
    - 4000ORS
    - 4000RDS
    - 4000SP
    - 4000TRV
  - 4200
    - 4200ORS
  - 4500
    - 4500EVS
    - 4500HS
    - 4500OFS
    - 4500ORS
    - 4500RDS
    - 4500SP
  - 4600
    - 4600ORS
  - 4700
    - 4700EVS
    - 4700OFS
    - 4700RDS
    - 4700SP
  - 4800
    - 4800EVS
    - 4800SP
  - B500
  - T400
    - T425
    - T450

- T500
  - T525
- X200
  - X200-4A
  - X200-4B
  - X200-4C
  - X200-5C
- X300
- X4560
- X1100
  - X1100-3B
  - X1100-5
- X5060
  - X5060-3
- Hauling
  - H5610
  - H6610
  - H8610
  - H9610
- Mobile
  - M5610
  - M6610
  - M8610
  - M9610
- Stationary
  - S5610
  - S6610
  - S8610
  - S9610
  - S9810
- Electric Drive
  - EP40
  - EP50
  - EP40/50 System
  - EP40/50 Series Electric Drive Propulsion System
- EV Drive
- HyEconomy
- HyGain
- HyPerformance
- HyStandard

**Taglines:**

- It's the transmission that makes the truck.
- If it's not Allison, it's not automatic.
- Change the way you move.
- Driving transmission technology.

**Advertising Design:**

- International "swirl" design – red, blue, military green]

## COPYRIGHT SECURITY AGREEMENT

**COPYRIGHT SECURITY AGREEMENT** (this “Agreement”), dated as of August 7, 2007, by ALLISON TRANSMISSION, INC. (formerly known as Clutch Operating Company, Inc.), a Delaware corporation (the “Grantor” and, collectively, the “*Grantors*”), in favor of CITICORP NORTH AMERICA, INC. (“Citi”), as agent for the Secured Parties (as defined in the Credit Agreement referred to below) (in such capacity, the “Administrative Agent”).

**Witnesseth:**

WHEREAS, pursuant to the Credit Agreement, dated as of August 7, 2007 (as amended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among ALLISON TRANSMISSION HOLDINGS, INC. (formerly known as Clutch Holdings, Inc.), a Delaware corporation (“Holdings”), the Grantor, the several banks and other financial institutions or entities from time to time parties to this Agreement (the “Lenders”), CITI, as Administrative Agent and Collateral Agent, LEHMAN BROTHERS COMMERCIAL BANK and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Syndication Agents, SUMITOMO MITSUI BANKING CORPORATION, as Documentation Agent and Co-Arranger, and CITIGROUP GLOBAL MARKETS INC., LEHMAN BROTHERS INC. and MERRILL LYNCH & CO., MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, as Joint Lead Arrangers and Joint Bookrunners have severally agreed to make extensions of credit to the Borrower upon the terms and subject to the conditions set forth therein; and

WHEREAS, the Grantor is party to a Guarantee and Collateral Agreement of even date herewith in favor of the Administrative Agent (the “*Collateral Agreement*”) pursuant to which the Grantor is required to execute and deliver this Agreement;

NOW, THEREFORE, in consideration of the premises and to induce the Lenders and the Administrative Agent to enter into the Credit Agreement and to induce the Lenders to make their respective extensions of credit to the Borrower thereunder, the Grantor hereby agrees with the Administrative Agent as follows:

**Section 1. Defined Terms**

Unless otherwise defined herein, terms defined in the Credit Agreement or in the Collateral Agreement and used herein have the meaning given to them in the Credit Agreement or the Collateral Agreement.

**Section 2. Grant of Security Interest in Copyright Collateral**

The Grantor, as collateral security for the full, prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Borrower Obligations of such Grantor, hereby mortgages, pledges and hypothecates to the Administrative Agent for the benefit of the Secured Parties, and grants to the Administrative Agent for the benefit of the Secured Parties a lien on and security interest in, all of its right, title and interest in, to and under the following Collateral of such Grantor (the “*Copyright Collateral*”):

- (a) all of its Copyrights and Copyright Licenses to which it is a party, including, without limitation, those referred to on *Schedule I* hereto;

(b) all extensions of the foregoing; and

(c) all Proceeds of the foregoing, including, without limitation, any claim by Grantor against third parties for past, present or future infringement of any Copyright or Copyright licensed under any Copyright License.

***Section 3. Collateral Agreement***

The security interest granted pursuant to this Agreement is granted in conjunction with the security interest granted to the Administrative Agent pursuant to the Collateral Agreement and the Grantor hereby acknowledges and affirms that the rights and remedies of the Administrative Agent with respect to the security interest in the Copyright Collateral made and granted hereby are more fully set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each of the undersigned have caused this Agreement to be duly executed and delivered as of the date first set forth above.

ALLISON TRANSMISSION, INC.,  
*as Grantor*

By: /s/ John L. Hazen  
Name: John L. Hazen  
Title: Chief Financial Officer

ACCEPTED AND AGREED  
as of the date first above written:

CITICORP NORTH AMERICA, INC.,  
*as Administrative Agent*

By: /s/ Francesco A. DelVecchio  
Name: Francesco A. DelVecchio  
Title: Vice President

[SIGNATURE PAGE TO COPYRIGHT SECURITY AGREEMENT]

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**Schedule I**  
**to**  
**Copyright Security Agreement**

*Copyright Registrations*

- See Attachment A hereto.
- All unregistered Copyrights used exclusively in the Business (excluding all Software).

## List of Subsidiaries

<u>Name</u>	<u>State or Country of Organization</u>
Allison Brasil Indústria e Comércio de Sistemas de Transmissão Ltda.	Brazil
Allison Transmission (Shanghai) Co., Ltd.	China
Allison Transmission Argentina S.R.L.	Argentina
Allison Transmission Canada ULC	Alberta, Canada
Allison Transmission China Holdings Limited	Hong Kong, China
Allison Transmission Europe B.V.	Netherlands
Allison Transmission Europe B.V., Zweigniederlassung Steyr	Austria
Allison Transmission Europe B.V., France Branch Office	France
Allison Transmission Europe B.V. Zweigniederlassung Deutschland	Germany
Allison Transmission Europe B.V., Magyarországi Fióktelepe	Hungary
Allison Transmission Europe B.V. – Italy Branch Office	Italy
Moscow representative office of Allison Transmission Europe B.V.	Russia
Allison Transmission Europe B.V. The Netherlands Filial	Sweden
Allison Transmission India Private Limited	India
Allison Transmission Japan Co., Ltd.	Japan
Allison Transmission Korea Co., Ltd.	Korea
Allison Transmission México, S. de R.L. de C.V.	Mexico
Allison Transmission Singapore Pte. Ltd.	Singapore
Allison Transmission International, L.L.C.	Delaware
Allison Transmission, Inc.	Delaware

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the use in this Registration Statement on Form S-1 of Allison Transmission Holdings, Inc. of our report dated March 18, 2011 relating to the consolidated financial statements of Allison Transmission Holdings, Inc., which appears in such Registration Statement. We also consent to the reference to us under the headings "Experts" in such Registration Statement.

/s/ PricewaterhouseCoopers LLP  
Indianapolis, Indiana  
March 18, 2011