

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:

WESCO AIRCRAFT HOLDINGS INC., *et al.*,¹
Debtors.

Chapter 11

Case No. 23-90611 (MI)

(Jointly Administered)

WESCO AIRCRAFT HOLDINGS, INC., *et al.*,
Plaintiffs,

v.

SSD INVESTMENTS LTD, *et al.*,
Defendants.

Adv. Pro. No. 23-03091 (MI)

SSD INVESTMENTS, LTD., *et al.*,
Counterclaim Plaintiffs,

v.

WESCO AIRCRAFT HOLDINGS, INC., *et al.*,
Counterclaim Defendants.

LANGUR MAIZE, L.L.C.,
Crossclaim Plaintiff,

v.

PLATINUM EQUITY ADVISORS, LLC, *et al.*,
Crossclaim Defendants.

¹ The Debtors operate under the trade name Incora and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one's federal tax identification number and the address of its principal office, is available on the website of the Debtors' noticing agent at <http://www.kccllc.net/Incora/>. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137



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LANGUR MAIZE, L.L.C.,
Third-Party Plaintiff,

v.

UNNAMED PLATINUM FUNDS c/o
PLATINUM EQUITY ADVISORS, LLC, *et al.*,
Third-Party Defendants.

LANGUR MAIZE, L.L.C.,
Counterclaim Plaintiff,

v.

WESCO AIRCRAFT HOLDINGS, INC., *et al.*,
Counterclaim Defendants.

**PLATINUM, CARLYLE, AND SENATOR'S SUPPLEMENTAL POST-TRIAL BRIEF
CONCERNING LANGUR MAIZE CLAIMS**

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INTRODUCTION

1. At the Court's July 10 oral ruling on breach-of-contract issues in this adversary proceeding, *see* ECF 1474 ("Phase One Ruling"), it declared that the method of selecting participants in the 2022 Transaction's Unsecured Exchange breached the Unsecured Indenture. *Id.* at 29:3–5. But a host of dispositive issues remain, each of which independently requires dismissal of Langur Maize's claims.

2. Langur Maize lacks Article III standing to pursue its tort and conspiracy claims. It owned no Unsecured Notes at the time of the Unsecured Exchange, it admits that it purchased its notes with knowledge of the 2022 Transaction, and it admits that it received no assignment from any prior holder. Langur Maize cannot point to a single case in which a successor purchaser, who bought notes for pennies on the dollar, has been permitted to pursue tort claims against third parties without having acquired them from a prior owner expressly. After extensive research, Defendants, too, have been unable to find a single example of this ever happening. Langur Maize's fundamental premise that the global note framework bestows such claims upon it lacks any support in either the language of the Indenture or Article 8 of the New York UCC and contravenes New York case law that uniformly holds that the Depository Trust Corporation is an agent only and holds no substantive rights associated with the notes (global or otherwise). This theory would divest original noteholders who alone could have experienced an actual injury (which Langur Maize did not) of tort remedies. Not only is that not the law—it is nonsensical.

3. Even if the Court found standing to exist, however, Langur Maize's claims would fail. Langur Maize did not sue Incora and seeks no remedies of any kind from the Issuer; it sued only third parties with no contractual obligations under the Indenture or the Global Note and with whom Langur Maize and its predecessors have never been in contractual privity. Langur Maize's

tortious interference claims suffer from numerous defects, including that it failed to overcome the economic interest defense. Although Langur Maize tried to evade the defense through artful pleading by claiming the breaching party was WSFS rather than the Debtors, this contortion does not work: Defendants held sufficient interest in WSFS's business to invoke the defense, and the uncontradicted evidence is that WSFS took direction from the Debtors, not Defendants.

4. Langur Maize's claims also fail because it cannot prove that any action by Defendants actually caused its supposed harm. Langur Maize has offered two alternative theories of harm: that the breach supposedly caused its predecessors' holdings to lose value, and that the breach caused its predecessors to be excluded from participation in the Unsecured Exchange. The first of these theories fails because even a version of the exchange that complied with Section 3.02's selection requirements could have resulted in precisely the same harm Langur Maize alleges. The second theory of harm fails for the same reason and many others—Langur Maize cannot prove that an unsecured exchange would have been offered *at all* if it had to be available to other noteholders, nor can it show that its predecessors would have availed themselves of an opportunity to participate in a "purchase" of new 1.25L Notes if such an offer had been made. This causation theory is even more untenable in light of the Court's Phase One ruling, because the very structure of the 2022 Transaction would not have authorized the Unsecured Exchange to proceed without the lien release proceeding first, which the Court has ruled should not have occurred, and for all practical purposes did not occur. Further, although the Court's determination that the 2022 Transaction breached the governing indentures does not mean that it was "illegal," public policy principles should apply to preclude Langur Maize from claiming damages based on its exclusion from impermissible activity.

5. Accordingly, the Court should issue a Report & Recommendation that judgment be

entered in Defendants' favor on Langur Maize's claims.

ARGUMENT

I. Langur Maize Lacks Standing

6. Langur Maize seeks redress for alleged harms it did not suffer, purportedly caused by Defendants' conduct. But Langur Maize was not a beneficial owner of unsecured notes when the alleged tort occurred, and it admits it never received any express assignment of third-party tort claims from any beneficial owner who was; indeed, Langur Maize has admitted that it does not even know the identity of its predecessors.

7. Because those tort claims were not expressly assigned to Langur Maize, they still belong to the original beneficial owners. The original beneficial owners retain the right to prosecute those claims, and the Indenture does not bar them. This interpretation of the Indenture is the only one that is consistent with the New York statutory law, the text of the Indenture, New York common law concerning the assignment of claims, Article III, and the evidence at trial. Langur Maize, by contrast, advocates an interpretation of the Indenture that is inconsistent with all of these sources of law, and asks the Court to invent a new theory of standing that is directly contrary to New York's legislative decisions concerning assignment of claims.

8. Defendants' prior briefing set out their position on standing. *See* Counterclaim Defs.' Am. Post-Trial Brief, ECF 1398 ("Post-Trial Brief"), at 81–85. In short, Article III requires that where, as here, the plaintiff was not directly injured, the plaintiff receive an assignment of claim from an entity that was. *W.R. Huff Asset Mgmt. Co. v. Deloitte & Touche LLP*, 549 F.3d 100, 107 (2d Cir. 2008). As to whether an assignment happened, New York General Obligations Law 13-107 provides that "a transfer of any bond shall vest in the transferee all claims or demands

of the transferrer” against the “obligor,” “trustee,” or “depository” only.² As this Court has recognized, Section 13-107 does not provide for automatic assignment of claims against all third parties. Instead, to prove it has standing to sue the Participating Unsecured Noteholders, Langur Maize must prove an “expression of a contemporaneous intent to transfer related tort claims.” *Commonwealth of Pa. Pub. Sch. Emps.’ Ret. Sys. v. Morgan Stanley & Co.*, 25 N.Y.3d 543, 553 (2015); *see Fox v. Hirschfeld*, 157 A.D. 364, 366, 368 (1st Dep’t 1913) (home purchase contract stating, “I hereby sell, assign, transfer, and set over unto [my wife] all my right, title, and interest in and to the within contract” did not assign claims for fraud in the sale).

9. Under these standards, there was no assignment of third-party claims to Langur Maize either by DTC or by Langur Maize’s predecessors. As to DTC, it “was not directly injured” and therefore “ha[d] nothing relevant to assign” in the first instance. Summ. J. Op., ECF 508, at 20–21. And the only communications from DTC to Langur Maize (via Langur Maize’s broker) in the record are “Authorization to Take Action Letters,” which do not purport to assign claims and in fact expressly state that “*Cede & Co. has no interest in this matter* other than to take those steps which are necessary to ensure the Beneficial Owner is not denied its rights and remedies as the beneficial owner of the Subject Notes on the Subject Date.” ECF 107-5, Ex. 2 (emphasis added). As to prior beneficial holders, Langur Maize admits it received no assignment.

10. There is no merit to any of Langur Maize’s various arguments for why, notwithstanding this wall of clear authority, it nevertheless has a right to pursue third-party claims despite never suffering an injury or receiving an assignment from a beneficial owner who did. Langur Maize has argued that Section 6.06 of the Indenture vests DTC with the right to pursue “any remedy with respect to this Indenture or the Unsecured Notes,” and therefore only DTC and

² The term “bond” in Section 13-107 means “any and all shares and interests in an issue of bonds, notes, debentures or other evidences of indebtedness.” This expansive definition plainly applies to beneficial interests in a global note.

entities it authorizes may pursue tortious interference claims against third parties (which Langur Maize wrongly claims are such “remedies with respect to the Indenture”). It also has argued that because the injury it alleges is “a loss in the value of the Global Note,” third-party tort claims for that injury effectively live in the global note and are owned by DTC as its “owner” or “Holder,” meaning DTC may convey them to any beneficial owner through an authorization letter. And it has argued that even if prior beneficial owners did own claims against third-parties for torts that allegedly reduced the value of their holdings, they tacitly and automatically assigned those claims to DTC when they sold their holdings. None of these arguments is supported by statutory or case law, and each is contrary to public policy and common sense.

11. Langur Maize is plainly wrong that third-party tort claims are “remedies with respect to the Indenture” that the Indenture vests with DTC. When a purchaser buys notes, the Indenture makes clear what is being purchased—namely, obligations of the Issuer and the Trustee to protect the principal and to make interest payments. The Issuer covenants to make interest payments, *see* Section 4.01, and to abide by certain rules in respect of its maintenance of the principal and its ability to repay its debt, *see* Sections 4.02–4.25; if there is an event of default as set forth in Section 6.01, beneficial owners may pursue remedies from the Issuer like those set forth in Sections 6.02 and 6.03 upon satisfaction of applicable prerequisites set forth in Section 6.06. The Indenture does not discuss preexisting third-party tort claims, nor does it otherwise evince an intent to treat unascertained future tort claims that may accrue in favor of an individual noteholder as part of the bundle of rights a buyer acquires upon purchasing notes.³

12. Langur Maize is also wrong in asserting that the advent of the intermediated holding system several decades ago, along with unspecified amendments to UCC Article 8 in the 2000s,

³ Langur Maize wrongly suggests Section 6.06 vests rights in DTC. It does not—it is a “collective action” clause that limits certain actions by holders of less than a majority of the principal of the notes (*e.g.* declaring events of default).

sub silentio vested ownership of third-party tort claims in the depositary that holds physical possession of global notes. The UCC has long made clear that security interests held by DTC “are held . . . for the entitlement holders” and “are not property of the securities intermediary.” N.Y. UCC § 8-503(a). Nevertheless, Langur Maize has posited that it need not obtain an assignment of claims from any prior beneficial owner because the Indenture and the Global Note recognize DTC as the “owner” or “Holder” of the Global Note, meaning—according to Langur Maize—that DTC therefore owns all claims that relate in any way to the value of securities issued under the Indenture. The Court correctly rejected this argument at summary judgment. Indentures that identify DTC as the “owner” or “Holder” of a global note serve not to disrupt the framework set forth in the UCC, but to adhere to it. In recognizing DTC as the Global Note’s custodian, the Indenture merely acknowledges the intermediated holding system infrastructure that was established nearly a half century ago: DTC holds custody of securities beneficially owned by others, *see Diverse Partners, LP v. AgriBank, FCB*, 2017 WL 4119649, at *5 (S.D.N.Y. Sept. 14, 2017) (quoted in Summ J. Op., ECF 508, at 21), and those seeking to sue the issuer for failure to satisfy its obligations may do so only if the custodian authorizes such suit. Nothing about this arrangement suggests DTC owns beneficial holders’ third-party tort claims, and no authority provides otherwise.⁴

13. Langur Maize has no authority for the assertion that prior noteholders automatically assigned their tort claims to DTC by selling their security entitlements. It has cited Section 2.06(b) of the Indenture, which provides that “transfer and exchange of beneficial interests in the Global Notes will be effected through [DTC], in accordance with the provisions of this Indenture and the

⁴ To the extent Langur Maize argues third-party tort claims live in global notes held by DTC, that argument fails for the same reasons. *Cf. Niche Music Grp. V. Orchard Enters.*, 189 A.D.3d 412, 413 (1st Dep’t 2020) (“The cause of action for tortious interference with contract . . . does not arise under the parties’ contract.”). The argument is particularly outlandish here, where the Global Note itself provides for “no recourse against others,” including specifically any “manager, managing director, director, officer, employee, incorporator or equity holder,” and states that such persons shall not “have any liability for any obligations of the Issuer . . . or for any claim based on, in respect of, or by reason of, such obligations or their creation.” ECF 601-7 at A-9.

Applicable Procedures,” ECF 601-7, § 2.06(b), as though this provision answers the question of what those “beneficial interests” being “transferred” comprise. It does not. Section 13-107 identifies the claims that travel upon transfer of a security interest, and third-party tort claims are not among them; to accept Langur Maize’s argument would be to render § 13-107 superfluous.

14. In the decades since the advent of the global note framework, not a single court has adopted the position urged by Langur Maize. Were the Court to credit Langur Maize’s theory that a successor noteholder is automatically entitled to pursue claims for prior noteholders’ injuries, the Court would be alone in the Nation in authorizing subsequent purchasers who have experienced no direct injury to pursue third-party claims for harm that could only have been felt by prior beneficial owners. Upon simply receiving “authorization letters” confirming that they currently are a beneficial owner, a complete stranger to the relationship between alleged third-party tortfeasors and the actual victims of their alleged torts—*i.e.*, the beneficial owner to whom a duty was owed, which duty was breached and caused harm to the beneficial owner—would be entitled to sue for harms they never experienced, even where, as here, they benefited by purchasing their interest for pennies on the dollar with full knowledge and long after the alleged harm occurred.

15. Accepting Langur Maize’s theory would not just grant windfalls to uninjured subsequent holders, it would also undermine the ability of the party that was actually injured to seek redress. Aggrieved noteholders would be put to a choice between mitigating their damages by selling their holdings, or pursuing redress against alleged wrongdoers. No policymaker or court has ever endorsed a regime that would put injured noteholders to such an election.

16. This Court was right the first time, *see* Summ. J. Op., ECF 508 at 21–22. For the reasons explained in Platinum’s and Carlyle’s previous submission, *see* ECF 533 at 5, there was no assignment of tort claims to Langur Maize, and the original noteholders have standing to assert

tortious interference claims should they so desire. Langur Maize does not.

II. The Participating Unsecured Noteholders Cannot Be Liable for Breach of Contract

17. Langur Maize’s breach of contract claims against the Participating Unsecured Noteholders must be dismissed. *See* Post-Trial Brief at 85–86, 97–98.⁵

III. The Economic Interest Defense Bars Langur Maize’s Tortious Interference Claim

18. The economic interest defense bars Langur Maize’s tortious interference claim. As the Court found during its Phase One Ruling, Platinum was the parent and sponsor of Wesco, Phase One Ruling at 9:4–5, and the 2022 Transaction infused the company with \$250 million in new money, *id.* at 7:7–8, while also providing the company with other forms of supplemental liquidity relief. An economic interest, and an attempt to protect that interest by benefitting the company, are *all* that New York courts have required to find that the economic interest defense applies. Because equity ownership so clearly gives rise to the defense, courts routinely dismiss tortious interference claims against equity sponsors. *See, e.g., Audax Cred. Opportunities Offshore Ltd. v. TMK Hawk Parent, Corp.* (“TriMark”), 72 Misc. 3d 1218(A), at *14–15 (N.Y. Sup. Ct. 2021); *ICG Glob. Loan Fund I DAC v. Boardriders, Inc.*, 2022 WL 10085886, at *9–10 (N.Y. Sup. Ct. Oct. 17, 2022); *Ocean Trails CLO VII v. MLN TopCo Ltd.* (“Mitel”), Index No. 651327/2023, ECF 701-2, at 56:7–57:7; *see also Robertshaw US Holding Corp. v. Invesco Senior Secured Mgmt. Inc.*, 2024 WL 3200467, at *14 (Bankr. S.D. Tex. June 20, 2024) (Lopez, J.); Platinum’s Renewed Mot. Summ. J., ECF 702, at 6–7; Post-Trial Brief at 75–78.

19. Carlyle, Senator, and Platinum’s economic interests in Wesco arising from their

⁵ To the extent the Court has found a breach of Section 3.07(h), the Participating Unsecured Noteholders cannot be liable for such breach, for the same reasons. Additionally, Section 3.07(h) provides only for the manner in which “[t]he Issuer or its Affiliates may at any time and from time to time purchase Unsecured Notes,” ECF 601-7 § 3.07(h), and does not purport to govern the actions of the parties who sell 2027 Notes to the Issuer or to impose any obligations upon them. Furthermore, given that any breach of Section 3.07(h) would have involved the purchase of Platinum’s 2027 Notes, Carlyle and Senator cannot be liable under any theory because they were not involved in that conduct.

ownership of Wesco notes also satisfy the economic interest requirement and suffice to invoke the defense under New York law. *See* Post-Trial Brief at 95–96; *see also, e.g., White Plains Coat & Apron Co. v. Cintas Corp.*, 8 N.Y.3d 422, 426 (2007); *Mitel*, ECF 701-2, at 56:7–57:10. The 2022 Transaction served to protect and further those interests in the company.

20. Langur Maize knows that this is a problem. That is why it has tried to base its tortious interference claim on a breach of Section 3.02 *by WSFS*, rather than by the Debtors. But artful pleading cannot get around the economic interest defense because the Participating Unsecured Noteholders had the requisite economic interest in WSFS’s business, too. The economic interest defense is not limited to equity owners and bondholders—rather, it is available to any defendant who acts “to protect its own legal or financial stake in the breaching party’s business,” *White Plains Coat & Apron Co.*, 8 N.Y.3d at 426, including, for example, where noteholders have interests for which the breaching party serves as the bond trustee under governing indentures, *see Bank of N.Y. Mellon v. Cart 1, Ltd.*, 2021 WL 2358695, at *4 (S.D.N.Y. June 9, 2021) (applying defense where bondholder acted to safeguard its stake in an asset for which BNY Mellon served as trustee); Post-Trial Brief at 97.

21. Langur Maize’s attempted end-run around the economic interest defense is also self-defeating, because Langur Maize has not proven the elements of tortious interference as to a breach by WSFS. The record comprises unrebutted evidence that WSFS acted *at the direction of the Debtors*, after receiving requisite officers’ certificates from the Debtors and opinion letters from the Debtors’ counsel. *See* ECF 1350 (Healy), at 151:13–152:17. WSFS did not act on any instruction from any of the Participating Unsecured Noteholders and so was not induced by them. *See id.* at 152:18–153:11, 154:10–155:11. Moreover, only the Debtors—not WSFS—could have issued the 1.25L Notes and exchanged them with the Participating Unsecured Noteholders for

2027 Notes. WSFS could not allocate the exchange without agreement by the Debtors. Thus, to the extent Langur Maize’s tortious interference claim is premised on a breach by WSFS, rather than the Debtors, the claim fails for lack of proof of inducement by Carlyle, Senator, or Platinum.⁶

22. Langur Maize’s only other argument against application of the economic interest defense is that the 2022 Transaction theoretically could have been better for the Debtors than it actually was. But that very argument has been expressly rejected by New York courts. *See TriMark*, 72 Misc. 3d 1218(A), at *11–12; *see also* Post-Trial Brief at 96–97.

23. Because the defense applies, Langur Maize must show that the Participating Unsecured Noteholders acted with “malice,” meaning that they “engaged in conduct for the *sole purpose* of inflicting *intentional harm*” on Langur Maize’s predecessor noteholders (or, taking Langur Maize’s assignment theory to its logical conclusion, on DTC itself). *U.S. Bank Nat’l Ass’n v. Triaxx Asset Mgmt. LLC*, 2019 WL 4744220, at *10 (S.D.N.Y. Aug. 26, 2019) (emphases added) (quoting *Carvel Corp. v. Noonan*, 3 N.Y.3d 182, 190 (2004)).⁷

24. The Court’s findings in its Phase One Ruling confirm the lack of any malice, just as the record has unambiguously shown: the transaction participants, including Carlyle and Platinum, were motivated by a desire to infuse the company with much-needed new money and to offer supplemental forms of liquidity relief, to maximize its chances of avoiding a value-destructive bankruptcy filing—not to harm any nonparticipants. As the Court explained, “[i]n the months leading up to the 2022 transaction, Wesco faced a major liquidity crisis,” Phase One Ruling at 8:24–25, and became increasingly concerned about its ability to make its May 2022

⁶ As to Platinum, the plain language of Section 13.05 of the Indenture should also bar tort liability against the Debtors’ equity sponsor. *See* Post-Trial Brief at 93–95. And, as to Senator, it could not have intended to cause WSFS or any other party to breach for the additional reason that it was not involved whatsoever in negotiating the Unsecured Exchange. *See id.* at 74–75.

⁷ There is no evidence of such intent to harm, which is why Langur Maize long ago resorted to arguing that “no malice evidence will ever be required.” Langur Maize’s Resp. to Platinum’s Renewed Mot. Summ. J., ECF 898, at 9 n.20.

interest payment, *id.* at 9:16–18. Incora needed \$250 million to “remain viable,” and PIMCO and Silver Point “offered to provide the required financing in an uptier transaction.” *Id.* at 7:7–11. “Although there may have been substantially better *theoretical* offers to finance Wesco’s need for immediate liquidity, none that were available were also actionable”—in other words, “[t]he record does not show the existence of any better alternative to the 2022 transaction.” *Id.* at 8:15–22 (emphasis added). Moreover, this Court found that the company and its board were also “reasonably concerned that PIMCO and Silver Point were in a power position that would allow them to prevent the company from getting the financing from other sources,” and “[t]he board expected PIMCO and Silver Point would use that power.” *Id.* at 10:21–24.

25. As such, “Wesco and Platinum believed, in good faith, that the 2022 transaction was the best available alternative to stop the bankruptcy filing,” and “the company and its advisors sincerely believed the 2022 transaction would be in the company’s best interests.” *Id.* at 12:2–3. The trial record similarly showed that Carlyle believed, in good faith, that the 2022 Transaction was in the company’s best interest. Prior to engaging in negotiations, Carlyle independently determined that Incora needed liquidity but could recover if provided new money, *see* ECF 832 (Hou), at 89:22–91:3; 101:3–13; 103:2–15; 104:7–13; ECF 538-13 at 5, and consented to the 2022 Transaction to allow new money to be invested to further that goal, *see, e.g.*, ECF 832 (Hou), at 142:23–25 (“We earnestly believed at the time that this transaction would give the Company at least two years of runway, if not four.”); *id.* at 78:7–9, 112:23–113:4, 134:12–20, 136:17–137:13, 137:5–7, 138:3–6, 141:3–8, 227:14–17.

26. A finding of malice—that the Participating Unsecured Noteholders participated in the 2022 Transaction not in order to benefit the company but specifically to harm nonparticipating noteholders whose identities were not even known, *see id.* at 179:14–17—simply is not possible

on these facts.

IV. Langur Maize’s Tortious Interference Claim Fails Because It Has Not Proven Causation

27. To prevail on its tortious interference claim, Langur Maize must also prove that the breach of Section 3.02 that the Court declared in its Phase One Ruling caused Langur Maize’s predecessors harm. *See, e.g., Lama Holding Co. v. Smith Barney Inc.*, 88 N.Y.2d 413, 424 (1996) (element of tortious interference claim is “damages *resulting [from]*” the breach of contract (emphasis added)); *Rich v. Fox News Network, LLC*, 939 F.3d 112, 128 (2d Cir. 2019) (assessing, in New York tortious interference claim, whether “[t]he connection between the breach and the alleged damages is sufficiently strong”); *25 Fifth Ave. Mgmt. Co. v. Ivor B. Clark, Inc.*, 208 A.D. 205, 208 (1st Dep’t), *aff’d*, 304 N.Y. 808 (1952) (finding that “plaintiff failed to establish any cause of action” because “it failed to show that the misconduct of defendant caused it to sustain any . . . damages”). It has not done so, and the claim fails as a result.

28. In assessing whether this element of a tortious interference claim has been satisfied, courts apply general principles of causation. The causal connection between the breach of contract and the harm cannot be supported by “mere speculation,” *Carlyle, LLC v. Quik Park 1633 Garage LLC*, 160 A.D.3d 476, 677 (1st Dep’t 2018), “conjecture,” or “guesswork,” *25 Fifth Ave. Mgmt. Co.*, 208 A.D. at 209. Similarly, Langur Maize’s claim will fail if the “question . . . [of] whether [it] was damaged at all” depends on the exercise of other parties’ “discretion.” *Id.*⁸

29. Langur Maize has advanced two theories of harm. First, Langur Maize posits that

⁸ *See also, e.g., Story Parchment Co. v. Paterson Parchment Paper Co.*, 282 U.S. 555, 562 (1931) (“The rule which precludes the recovery of uncertain damages applies to such as are not the certain result of the wrong, [but] not to those damages which are definitely attributable to the wrong and only uncertain in respect of their amount.”). Courts have made clear that the required causal connection between the plaintiff’s injury and the underlying wrong is not satisfied when it is “based on speculation” or “guesswork,” or when “actual damage depends on an exercise of discretion, and there is no evidence from which it reasonably can be determined how such discretion would be exercised.” *James Wood Gen. Trading Establishment v. Coe*, 297 F.2d 651, 658 (2d Cir. 1961).

the Unsecured Exchange harmed its predecessors by diminishing the value of their 2027 Notes. Second, Langur Maize contends that its predecessors were wrongly deprived of 1.25L Notes by their exclusion from the 2022 Transaction. Under either theory, it has not proven the required element of causation because it impermissibly relies on speculation and conjecture in assuming that, if Section 3.02 had been complied with, these injuries would not have occurred.

A. There Is No Evidence of Any Causal Connection Between a Breach of Section 3.02 and a Decline in the Value of 2027 Notes

30. Langur Maize contends that because the Unsecured Exchange was executed in a manner not permitted under the Indenture—specifically, by selecting participants through a method other than those set forth in Section 3.02—the value of its predecessors’ holdings declined. As an initial matter, the record is devoid of evidence that the 2022 Transaction led to any reduction in the price of the 2027 Notes at all—in fact, the evidence is to the contrary.⁹ But even if there were such evidence, Langur Maize’s claim would still fail because there is no evidence that the specific selection mechanism used to determine participation in the Unsecured Exchange had any effect on the price of the 2027 Notes.

31. As Langur Maize itself has explained, the Indenture permitted WSFS “to select 2027 Notes for redemption or purchase *pro rata*, by lot, or by some other fair and appropriate method.” ECF 1395 at 4–5. Any transaction that uptiered some but not all of the 2027 Notes might have resulted in the same purported decrease in the price of unsecured notes that Langur Maize claims occurred here—no matter the selection mechanism. For instance, selection by lot would, by definition, leave some noteholders out of the exchange and presumably result in the

⁹ Specifically, trading data show that the value of the 2027 Notes *increased*, not decreased, after the announcement of the 2022 Transaction—presumably reflecting the market’s appreciation of the fact that, by improving Incora’s liquidity profile, the 2022 Transaction increased the likelihood that all noteholders would receive additional coupon payments and ultimately be repaid. See ECF 1297 (Denham), at 112:3–10; ECF 1238-9.

loss of value Langur Maize alleges here. In that case, the outcome would be the same: the 2027 Notes would now be junior to new junior-secured debt (*i.e.*, the 1.25L Notes), which could result in a decrease in the price of the 2027 Notes. In other words, Langur Maize’s purported injury stems not from the Unsecured Exchange happening in breach of Section 3.02, but from there being a non-pro-rata uptier *at all*—even though the Indentures expressly permitted non-pro-rata transactions and exchanges of only some of the 2027 Notes. Because Langur Maize has not shown that the breach caused its purported harm, its claim fails.

B. There Is No Evidence that a Breach of Section 3.02 Caused Langur Maize’s Predecessors Not to Receive 1.25L Notes

32. Langur Maize’s alternative theory of injury is that the breach of Section 3.02 caused its predecessors harm by depriving them of 1.25L Notes. This argument relies even more heavily on unsupported conjecture amounting to a total failure of proof. The causal connection between the breach and this purported harm is impermissibly speculative in four independent and dispositive ways.

33. *First*, this theory of harm depends on speculating that an unsecured exchange open to all noteholders would have occurred in the absence of the secured portion of the transaction. The Court has declared that the secured portion of the 2022 Transaction “violated the indenture,” and therefore “no new 2026 notes issued.” Hr’g Tr. (Aug. 13, 2024), at 74:18–20. As the Court noted multiple times in its Phase One Ruling, the terms of the 2022 Transaction were negotiated as a package deal—such that the terms of the Unsecured Exchange necessarily depended on the structure of the remainder of the transaction. *See* Phase One Ruling at 14:10–14 (the 2022 Transaction was “negotiated *in its totality*” (emphasis added)); *see also id.* at 19:24–20:1 (“PIMCO and Silver Point only offered the new \$250 million on the contingency that the entire transaction would take place.”). Without the issuance of the additional 2026 Notes, there is no

reason to assume that the unsecured portion of any counterfactual transaction would have been negotiated. In other words, Langur Maize seeks retroactive inclusion in a transaction that, per the Court's Phase One Ruling, could not and did not happen.¹⁰

34. Further, the Court's findings in its Phase One Ruling suggest that no alternative secured transaction would have occurred in light of the Court's finding that PIMCO and Silver Point would not have agreed to a *pro rata* deal. *See, e.g., id.* at 20:3–11 (finding that “PIMCO and Silver Point's group was . . . unwilling to open a transaction to all secured noteholders through a prorated [sic] transaction,” and that “[t]he transactions would not have worked, from Silver Point's perspective, without elevated lien status because the participating noteholders were providing new money at a lower interest rate than they would have lent it if the new money were issued on a *pari passu* basis”). And, without a secured transaction that released the liens securing the 2026 Notes, an alternative unsecured exchange into junior-lien notes would not have occurred either. Without that lien release, there is no evidence that the economics of the Unsecured Exchange would have made sense for participating noteholders, because there would have been little or no value to a junior lien. As such, an exchange into junior secured notes likely would not have occurred at all—or, at the very least, unsecured noteholders considering such a transaction may well have demanded different terms.¹¹ Apart from its failure to introduce evidence that a counterfactual unsecured transaction would have occurred, Langur Maize also failed to prove that any alternative plan would have been actionable in the allotted time. Time was of the essence in negotiating the 2022 Transaction, *see* Phase One Ruling, at 9:24–10:9, yet transaction participants

¹⁰ Langur Maize cannot simply ignore the Court's ruling on the additional 2026 Notes in attempting to prove causation. Rather, the causation analysis requires assuming full compliance with the governing indentures. *See, e.g., Emmet & Co. v. Catholic Health E.*, 49 Misc. 3d 1058, 1072–73 (N.Y. Sup. Ct. 2015).

¹¹ For instance, they may have insisted on PIK'ing less interest, required a smaller 1.25L basket size, or simply refused to consent to a transaction that was open to all noteholders. *See* ECF 832 (Hou), at 140:3–15 (Carlyle wanted a smaller 1.25L tranche); *id.* at 125:3–18 (negotiating for smaller basket capacity); *id.* at 130:7–22 (negotiating for veto right for use of 1.25L basket).

“did not know who [the nonparticipating unsecured noteholders] were,” ECF 832 (Hou), at 139:4–7, and the evidence showed that identifying those noteholders and inviting them to participate in transaction negotiations would have complicated and delayed a successful deal—if not scuttled it entirely, *see id.* at 139:13–17, 138:18–21.

35. *Second*, this theory of harm requires further conjecture that, even if an alternative unsecured exchange had occurred and had been open to all unsecured noteholders, Langur Maize’s predecessor noteholders would have elected to participate. The record contains no evidence of who those noteholders were, *see* ECF 1375 (Cimala), at 192:3–19, much less whether they would have chosen to participate in the Unsecured Exchange.

36. There is substantial reason to doubt whether any of Langur Maize’s predecessors would have chosen to participate, because the economics of the 2022 Transaction were highly uncertain for holders of the 2027 Notes. *See, e.g.*, ECF 832 (Hou), at 145:1–146:23; *id.* at 139:4–17. Participating unsecured noteholders “took substantial risk in this transaction” because they PIK’ed most of their coupon payment (9.125%) while nonparticipating noteholders continued to receive their full 13.125% cash coupon. *Id.* at 142:3–7. That higher cash-interest payment that nonparticipating noteholders continued to receive would have helped to significantly de-risk their positions, *see id.* at 142:21–143:5, and a nonparticipating noteholder could easily have decided to sit on the sidelines and benefit from the immediate cashflow benefits to the company of the 2022 Transaction. *See id.* at 142:2–15 (“[B]y getting runway and preserving their cash coupon . . . [nonparticipating unsecured noteholders] benefitted in those two ways very materially.”).¹²

37. *Third*, this theory of harm is speculative because it assumes that, even if an

¹² As it turns out, they would have been correct if they concluded that it was not in their best interest to participate, given that nonparticipating unsecured noteholders had a better economic outcome between the date of the 2022 Transaction and the petition date, and are set to recover more in the Debtors’ bankruptcy. *See id.* at 145:10–146:23.

unsecured exchange had occurred in the counterfactual world and Langur Maize's predecessors chose to participate, their notes would actually have been selected for exchange. Langur Maize adduced no evidence concerning which of the three selection methods in Section 3.02 the Trustee would have employed in a hypothetical exchange, and it is pure conjecture simply to assume that the exchange would have been *pro rata*. Instead, the Trustee may have selected notes by lot, the results of which are necessarily speculative. As such, Langur Maize's claim that its predecessors should have received 1.25L Notes requires speculating, without evidence, that the Trustee would have selected *pro rata* or that luck would have favored Langur Maize's predecessors in a lottery.

38. *Fourth*, it is hopelessly speculative whether Langur Maize's predecessors' failure to receive 1.25L Notes actually caused them any damage. *See, e.g., 25 Fifth Ave. Mgmt. Co.*, 208 A.D. at 208 ("The fact of damage must be susceptible of ascertainment in some manner other than mere conjecture or guesswork."). Langur Maize failed to adduce any evidence that its predecessors would have attempted to sell 1.25L Notes at all, or that they could have sold them, much less any evidence of the price at which they might have sold them. In fact, the evidence suggests that they would have been unable to sell 1.25L Notes at any price, since Carlyle attempted to make a market in the notes but could not find a single bid. *See* ECF 832 (Hou), at 146:24–147:14. If Langur Maize's predecessors could not have sold any 1.25L Notes they received, it is entirely speculative that receipt of 1.25L Notes would have had incremental value to Langur Maize's unknown predecessors compared to 2027 Notes, because there is no value available to pay off the 1.25L Notes in the bankruptcy.

V. Langur Maize's Theory of Injury Violates New York Public Policy

39. As explained, Langur Maize's theory of injury premised on its predecessors' exclusion from the Unsecured Exchange essentially seeks retroactive inclusion in the 2022 Transaction. But the Court ruled that the 2022 Transaction was "a singular transaction" that was

“not permitted” and “illegal under the documents,” *see* Phase One Ruling at 13:8–9, 12:4–12, 14:10–18. While Defendants do not believe that the 2022 Transaction was “illegal, *see, e.g., IMG Fragrance Brands, LLC v. Houbigant, Inc.*, 679 F. Supp. 2d 395, 406–07 (S.D.N.Y. 2009) (distinguishing between “mere breach of contract” and “illegal conduct”), Langur Maize’s claim of entitlement to have participated in a transaction that the Court has declared breached the governing indentures contravenes the same public policy that prohibits parties from benefitting from unlawful contracts.

40. New York courts routinely hold that unlawful agreements are unenforceable, so as not to allow parties to benefit from such agreements. *See, e.g., Benjamin v. Koepfel*, 85 N.Y.2d 549, 553 (1995) (quoting *Lloyd Capital Corp. v. Pat Henchar, Inc.*, 80 N.Y.2d 124, 127 (1992)). Courts also have extended this principle to third parties. *See, e.g., Naimo v. La Fianza*, 369 A.2d 987, 992 (N.J. Super. Ct. Ch. Div. 1976) (“It is a general rule of law that one not a party to an illegal contract cannot derive any benefit therefrom”); *Zollinger v. Carrol*, 49 P.3d 402, 405 (Idaho 2002). Permitting Langur Maize to assert claims that seek the benefit of participation in a transaction held to be impermissible offends this public policy.

VI. The Court’s Post-Trial Reversal of Its Summary Judgment Ruling on the Meaning of Section 3.02 of the Indenture Prejudiced Defendants

41. In its summary judgment opinion, this Court held that Section 3.02 did not apply to “purchases,” and ruled that trial evidence was required only to determine whether the Unsecured Exchange involved a “redemption.” Summ. J. Op., ECF 508, at 42–43. Then, in its Phase One Ruling, the Court found the opposite, reversing its summary judgment holding and ruling that although the Unsecured Exchange did not involve a redemption—which was the only issue the Court had left open for trial in the summary judgment ruling—the indenture was breached because Section 3.02 applied to “purchases” also. Phase One Ruling, at 33:15–37:5.

42. The Court’s *sua sponte* reconsideration and reversal of its summary judgment ruling caused Defendants substantial prejudice. The parties to a case “have a right to rely on” a ruling removing certain claims from the case, and if “the judge subsequently changes the initial ruling and broadens the scope of the trial, the judge must inform the parties and give them an opportunity to present evidence relating to the newly revived issue.” *Leddy v. Standard Drywall, Inc.*, 875 F.2d 383, 386 (2d Cir. 1989); *see also F.D.I.C. v. Massingill*, 24 F.3d 768, 774 (5th Cir. 1994) (citing *Leddy*). The Participating Unsecured Noteholders relied during trial on the Court’s summary judgment ruling, *see, e.g., Burge v. Par. of St. Tammany*, 187 F.3d 452, 467 (5th Cir. 1999) (stating that a partial summary judgment order is “the law of the case on the issues decided”), and therefore focused on whether the 2022 Transaction was a redemption, directing questions on this topic to five witnesses.¹³ They offered no evidence or argument regarding Section 3.02’s application to “purchases” at trial, did not argue this point in any post-trial brief, and did not prepare to address this subject at the Phase One closing argument.

43. Specifically, during trial, Defendants forwent argument about the Preliminary Offering Memorandum—which is the best record evidence of the parties’ intent with respect to Section 3.02, and is directly contrary to Langur Maize’s interpretation of that provision.¹⁴ The Offering Memorandum for the 2027 Notes states that “[i]f less than all of the Unsecured Notes are to be redeemed at any time, the Trustee will select Unsecured Notes *for redemption* pro rata, by lot or by such method as it shall deem fair and appropriate.” ECF 560-1 at p. 245 (emphasis added). It is thus unambiguous that the Offering Memorandum’s explication of the 2027

¹³ See ECF 832 (Hou), at 157:1–10, 157:24–158:1; ECF 738 (O’Connell), at 138:16–19; ECF 827 (Smith), at 95:19–23; ECF 1350 (Healy), at 297:19–24; ECF 1008 (Seketa), at 170:17–171:1.

¹⁴ New York courts routinely consider offering memoranda as probative evidence of intent. *See, e.g., Stonehill Cap. Mgmt. v. Bank of the West*, 28 N.Y.3d 439, 450 (2016); *Beck v. Mfrs. Hanover Tr.*, 218 A.D.2d 1, 14–15 (1st Dep’t 1995); *In re Trusteeship Created by Am. Home Mortg. Inv. Tr. 2005-2*, 2014 WL 3858506, at *20–21 (S.D.N.Y. July 24, 2014).

Indenture provision that corresponds to Section 3.02 pertains to redemptions only, indicating that the parties did not intend the pro rata selection requirement to apply to purchases.¹⁵ The Court has recognized that Langur Maize’s reading of Section 3.02 to pertain to purchases is “awkward.” Phase One Ruling at 33:15–37:5. Reviewing the 2027 Indenture together with the Offering Memorandum leads to a sounder interpretation of the parties’ original intent.¹⁶ The Court should therefore vacate its *sua sponte* reconsidered ruling on whether Section 3.02 applies to “purchases” and restore its summary judgment ruling.

VII. Langur Maize Has Not Proven a Civil Conspiracy

44. For the reasons already explained, Langur Maize has not proven that the Participating Unsecured Noteholders engaged in a civil conspiracy, both because the underlying tortious interference claim fails and because there is no evidence that the Participating Unsecured Noteholders entered into an agreement to commit a tort. *See* Post-Trial Brief at 99–100.

CONCLUSION

45. For the reasons set forth above, the Court should reject Langur Maize’s claims against the Participating Unsecured Noteholders.

¹⁵ Unlike the 2027 Indenture, it is not possible to read the Offering Memorandum as Langur Maize suggests, and the confounding references to “purchases” that has created an ambiguity in Section 3.02 are not found in that document.

¹⁶ The Participating Unsecured Noteholders also would have proffered a prior draft of the Indenture, *see* Exhibit 1, which was produced in discovery but was not part of the evidence at trial, given the Court’s summary judgment ruling. The non-final draft of Section 3.02 states: “If less than all of the Unsecured Notes are to be redeemed *or purchased in an offer to purchase* at any time, the Trustee . . . will select Unsecured Notes for redemption or purchase pro rata, by lot or by such method as it shall deem fair and appropriate.” *Id.* § 3.02 (emphasis added). The deletion of the language “or purchased in an offer to purchase” from the final version of Section 3.02 in the Indenture indicates that the parties did not intend Section 3.02 to apply to purchases.

Dated: September 6, 2024

WILLIAMS AND CONNOLLY LLP

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CERTIFICATE OF SERVICE

I certify that, on September 6, 2024, a true and correct copy of the foregoing document was served through the Court's Electronic Case Filing System of the United States Bankruptcy Court of the Southern District of Texas, which will send a notification of such filing to all counsel of record.

Date: September 6, 2024

/s/ Joseph G. Catalanotto
Joseph G. Catalanotto

EXHIBIT 1

WOLVERINE ESCROW, LLC
(to be merged with and into WESCO AIRCRAFT HOLDINGS, INC.),

and

the Guarantors from time to time party hereto

\$525,000,000 13.125% SENIOR NOTES DUE 2027

INDENTURE

Dated as of November 27, 2019

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
as Trustee

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EXHIBITS

Exhibit A	FORM OF 144A, IAI AND REGULATION S NOTE
Exhibit B	FORM OF CERTIFICATE OF TRANSFER
Exhibit C	FORM OF CERTIFICATE OF EXCHANGE
Exhibit D	FORM OF SUPPLEMENTAL INDENTURE TO BE DELIVERED BY SUBSEQUENT GUARANTORS
Exhibit E	FORM OF CERTIFICATE OF BENEFICIAL OWNERSHIP
Exhibit F	FORM OF CERTIFICATE OF ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

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INDENTURE dated as of November 27, 2019 among Wolverine Escrow, LLC, a Delaware limited liability company (the “*Initial Issuer*”), the Guarantors (as defined herein) from time to time party hereto and The Bank of New York Mellon Trust Company, N.A., as trustee (in such capacity, the “*Trustee*”).

Substantially concurrently with the consummation of (i) the acquisition (the “*Acquisition*”) of 100% of the issued and outstanding equity interests of Wesco Aircraft Holdings, Inc., a Delaware corporation (the “*Ultimate Issuer*”), and its subsidiaries by Wolverine Intermediate Holding II Corporation, a Delaware corporation (“*Holdings*”), as a result of the merger of Wolverine Merger Corporation, a Delaware corporation (the “*Merger Sub*”), with and into the Ultimate Issuer, pursuant to an agreement and plan of merger, dated as of August 8, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the “*Acquisition Agreement*”), by and among the Ultimate Issuer, Merger Sub and Holdings and (ii) the Reorganization (as defined herein), the Initial Issuer will merge (the “*Initial Issuer Merger*”) with and into Merger Sub or its successor, the Ultimate Issuer, with the Ultimate Issuer ultimately continuing as the surviving entity and upon execution and delivery of a supplemental indenture by Ultimate Issuer, the Guarantors and the Trustee, the obligations of Initial Issuer with respect to the due and punctual payment of the principal of, premium, if any, and interest on the Unsecured Notes and the performance and observation of each covenant and agreement under this Indenture on the part of Initial Issuer to be performed or observed will become the obligations of the Ultimate Issuer and will be unconditionally and irrevocably guaranteed by the Guarantors. As used herein, the term “*Issuer*” shall refer to, prior to the consummation of the Acquisition, the Reorganization and the Initial Issuer Merger, the Initial Issuer, and, upon and after consummation of the Acquisition, the Reorganization and the Initial Issuer Merger, the Ultimate Issuer.

The Issuer, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the 13.125% Senior Notes due 2027 (the “*Unsecured 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, 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 Unsecured Notes sold in reliance on Rule 144A.

“*2024 Secured Notes*” means \$650.0 million aggregate principal amount of 8.50% Senior Secured Notes due 2024 issued by the Issuer on the Issue Date.

“*2024 Secured Notes Indenture*” means the indenture with respect to the 2024 Secured Notes, dated as of the Issue Date, among the Issuer, the guarantors from time to time party thereto and The Bank of New York Mellon Trust Company, N.A., as trustee and collateral agent, as amended and supplemented from time to time.

“*2026 Secured Notes*” means \$900.0 million aggregate principal amount of 9.00% Senior Secured Notes due 2026 issued by the Issuer on the Issue Date.

“*2026 Secured Notes Indenture*” means the indenture with respect to the 2026 Secured Notes, to be dated as of the Issue Date, among the Issuer, the guarantors from time to time party thereto and The Bank of New York Mellon Trust Company, N.A., as trustee and collateral agent, as amended and supplemented from time to time.

“*ABL Collateral Agent*” means Bank of America, N.A., in its capacity as collateral agent for the lenders and other secured parties under the New ABL Credit Agreement, together with its successors and permitted assigns under the New ABL Credit Agreement.

“*ABL Debt*” means:

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(1) Indebtedness (including letters of credit and reimbursement obligations with respect thereto) and other obligations incurred by the ABL Loan Parties under or in respect of the New ABL Credit Agreement and/or secured by the ABL Security Documents; and

(2) guarantees by any Restricted Subsidiary in respect of any of the obligations described in the foregoing clause (1).

“*ABL Documents*” means, collectively, the New ABL Credit Agreement, the ABL Intercreditor Agreement and the indenture, credit agreement or other agreement governing other ABL Debt and the security documents related to the foregoing.

“*ABL Intercreditor Agreement*” means that certain intercreditor agreement, dated as of the Acquisition Date, by and among the ABL Collateral Agent, the Notes Collateral Agent and each additional agent from time to time party thereto, and acknowledged by the grantors from time to time party thereto, as may be amended, restated, supplemented or replaced, in whole or in part, from time to time.

“*ABL Loan Parties*” means, collectively, the borrowers and guarantors from time to time party to the ABL Documents.

“*ABL Security Documents*” means all security agreements, pledge agreements, control agreements, collateral assignments, mortgages, deeds of trust, security deeds, deeds to secure debt, hypothecs, collateral agency agreements, debentures or other instruments, pledges, grants or transfers for security or agreements related thereto executed and delivered by the Issuer, any other borrower party thereto or any Guarantor creating or perfecting (or purporting to create or perfect) a Lien upon collateral (including, without limitation, financing statements under the UCC) in favor of the ABL Collateral Agent, for the benefit of any of the holders of ABL Debt, in each case, as amended, modified, restated, supplemented or replaced, in whole or in part, from time to time, in accordance with its terms and the applicable ABL Documents subject to the terms of the ABL Intercreditor Agreement, as applicable.

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

(1) Indebtedness, Disqualified Stock or preferred stock of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness, Disqualified Stock or preferred stock 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; *provided, however*, that any Indebtedness, Disqualified Stock or preferred stock of such acquired Person that is redeemed, defeased, retired or otherwise repaid at the time of or immediately upon consummation of the transactions by which such Person merges with or into or becomes a Subsidiary of such Person shall not be considered to be Acquired Debt; and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“*Acquired Entity or Business*” means either (i) the assets constituting a business, division, product line, manufacturing facility or distribution facility of any Person not already a Subsidiary of the Issuer, which assets shall, as a result of the respective acquisition, become assets of the Issuer or a Restricted Subsidiary of the Issuer (or assets of a Person who shall be merged or amalgamated with and into the Issuer or a Restricted Subsidiary of the Issuer) or (ii) a majority of the Equity Interests of any Person, which Person shall, as a result of the respective acquisition, become a Restricted Subsidiary of the Issuer (or shall be merged or amalgamated with and into the Issuer or a Restricted Subsidiary of the Issuer).

“*Acquisition*” has the meaning assigned to such term in the introductory paragraph hereto.

“*Acquisition Agreement*” has the meaning assigned to such term in the introductory paragraph hereto.

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“Additional Cash Capped Grower Amount” means the greater of (x) \$100.0 million and (y) 30.0% Consolidated EBITDA of the Issuer for the most recently ended four full fiscal quarter period for which internal financial statements are available immediately preceding such date of determination, calculated on a Pro Forma Basis.

“Additional Refinancing Amount” means, in connection with the refinancing of any Indebtedness, Disqualified Stock or preferred stock, the aggregate principal amount of additional Indebtedness, Disqualified Stock or preferred stock incurred to pay: (1) accrued and unpaid interest on the Indebtedness being refinanced; (2) the increased principal amount of any Indebtedness being refinanced resulting from the in-kind payment of interest on such Indebtedness (or in the case of Disqualified Stock or preferred stock being refinanced, additional shares of such Disqualified Stock or preferred stock); (3) the aggregate amount of original issue discount on the Indebtedness being refinanced; (4) premiums (including tender premiums) and other costs associated with the redemption, repurchase, retirement, discharge or defeasance of Indebtedness, Disqualified Stock and preferred stock being refinanced; and (5) all fees and expenses (including underwriting discounts, commitment, ticking and similar fees, expenses and discounts) associated with the repayment of the Indebtedness, Disqualified Stock and preferred stock being refinanced and the incurrence of the Indebtedness incurred or Disqualified Stock or preferred stock issued in connection with such refinancing.

“Additional Unsecured Notes” means any additional Unsecured Notes (other than the Initial Unsecured Notes) issued under this Indenture in accordance with Sections 2.01(e) and 4.09 hereof, as part of the same series as the Initial Unsecured Notes.

“Advisory Agreement” means the corporate advisory services agreement by and among the Issuer (and/or one of its direct or indirect parent companies) and the Sponsor, as amended, restated, modified, or replaced from time to time.

“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, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” have correlative meanings.

“Agent” means any Registrar, co-registrar, Custodian, Paying Agent, additional paying agent or authenticating agent.

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

- (1) 1.0% of the principal amount of the Unsecured Note; and
- (2) the excess of:
 - (a) the present value at such redemption date of (i) the redemption price of the Unsecured Note at November 15, 2022 (such redemption price being set forth in the table appearing in Section 3.07(f) hereof), plus (ii) all required interest payments due on the Unsecured Note through November 15, 2022 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over
 - (b) the principal amount of the Unsecured Note.

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Calculation of the Applicable Premium will be made by the Issuer or on behalf of the Issuer by such Person as the Issuer shall designate; *provided* that such calculation or the correctness thereof shall not be a duty or obligation of the Trustee.

“*Applicable Procedures*” means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

“*Asset Sale*” means:

- (1) the sale, lease, conveyance or other disposition (whether by Division or otherwise) of any assets or rights by the Issuer or any of its Restricted Subsidiaries; *provided* that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Issuer and its Restricted Subsidiaries taken as a whole will be governed by Sections 4.14 and/or 5.01 hereof (and not by Section 4.10 hereof); and
- (2) the issuance of Equity Interests (other than directors’ qualifying shares or shares or interests required to be held by foreign nationals or third parties to the extent required by applicable law or any preferred stock or Disqualified Stock of a Restricted Subsidiary of the Issuer issued in compliance with Section 4.09 hereof) by any of the Issuer’s Restricted Subsidiaries or the sale by the Issuer or any of its Restricted Subsidiaries of Equity Interests in any of the Issuer’s Restricted Subsidiaries.

Notwithstanding the foregoing, none of the following items will be deemed to be an Asset Sale:

- (1) any single transaction that involves assets or Equity Interests having a Fair Market Value of less than the greater of (x) \$15.0 million and (y) 5.0% of Consolidated EBITDA;
- (2) a transfer of assets between or among the Issuer and its Restricted Subsidiaries;
- (3) an issuance or sale of Equity Interests by a Restricted Subsidiary of the Issuer to the Issuer or to another Restricted Subsidiary of the Issuer;
- (4) the sale, lease or other transfer of products, equipment, inventory, services or accounts receivable in the ordinary course of business, the discount or forgiveness of accounts receivable in the ordinary course of business in connection with the collection or compromise thereof, the disposition of a business not comprising the disposition of an entire line of business and any sale or other disposition of surplus, damaged, worn-out or obsolete assets in the ordinary course of business (including the abandonment or other disposition of intellectual property that is, in the reasonable judgment of the Issuer, no longer economically practicable or commercially reasonable to maintain or useful in any material respect, taken as a whole, in the conduct of the business of the Issuer and its Restricted Subsidiaries taken as whole);
- (5) licenses and sublicenses by the Issuer or any of its Restricted Subsidiaries of software or intellectual property;
- (6) any surrender, termination or waiver of contract rights or settlement, release, recovery on or surrender of contract, tort or other claims in the ordinary course of business;
- (7) the granting of Liens not prohibited by Section 4.12 hereof;
- (8) the sale or other disposition of cash or Cash Equivalents;
- (9) a Restricted Payment that does not violate Section 4.07 hereof or a Permitted Investment;

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(10) leases and subleases and licenses and sublicenses by the Issuer or any of its Restricted Subsidiaries of real or personal property in the ordinary course of business;

(11) any liquidation or dissolution of a Restricted Subsidiary of the Issuer, provided that such Restricted Subsidiary's direct parent is also either the Issuer or a Restricted Subsidiary of the Issuer and immediately becomes the owner of such Restricted Subsidiary's assets;

(12) [Reserved];

(13) any financing transaction with respect to property built or acquired by the Issuer or any Restricted Subsidiary of the Issuer after the Acquisition Date, including, without limitation, Sale/Leaseback Transactions permitted by this Indenture;

(14) the granting of any option or other right to purchase, lease or otherwise acquire inventory and delinquent accounts receivable in the ordinary course of business;

(15) any issuance or sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(16) the sale, transfer, termination or other disposition of Hedging Obligations incurred in compliance with this Indenture;

(17) foreclosure, condemnation or any similar actions with respect to any property or other assets including any sales of assets received by the Issuer or any of its Restricted Subsidiaries upon such foreclosure, condemnation or similar action;

(18) [reserved];

(19) any trade-in of equipment by the Issuer or any Restricted Subsidiary of the Issuer in exchange for other equipment; provided that in the good faith judgment of the Issuer or such other Restricted Subsidiary, the Issuer or such Restricted Subsidiary receives equipment having a Fair Market Value equal or greater than the equipment being traded in;

(20) the transfer, sale or other disposition resulting from any involuntary loss of title, involuntary loss or damage to or destruction of or any condemnation or other taking of, any property or assets of the Issuer or any Restricted Subsidiary;

(21) the termination of leases and subleases in the ordinary course of business;

(22) 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;

(23) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements or similar binding arrangements;

(24) the lapse, cancellation or abandonment of intellectual property rights in the ordinary course of business, which in the reasonable good faith determination of the Issuer are not material to the conduct of the business of the Issuer and the Restricted Subsidiaries taken as a whole; and

(25) the sale of any property in a Sale/Leaseback Transaction within six months of the acquisition of such property.

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

“*Beneficial Owner*” has the meaning given to that term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will not be deemed to have beneficial ownership of any securities that such “person” has the right to acquire or vote only upon the happening of any future event or contingency (including the passage of time) that has not yet occurred. The terms “*beneficial ownership*,” “*beneficially owns*” and “*beneficially owned*” have a corresponding meaning.

“*Board of Directors*” means, as to any Person, the board of directors, board of managers, sole member or managing member or other governing body of such Person, or if such Person is owned or managed by a single entity or has a general partner, the board of directors, board of managers, sole member or managing member or other governing body of such entity or general partner, or in each case, any duly authorized committee thereof, and the term “directors” means members of the Board of Directors.

“*Business Day*” means any day other than a Legal Holiday.

“*Capital Lease Obligation*” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the notes thereto) in accordance with GAAP; *provided* that (x) no obligation will be deemed a “Capital Lease Obligation” for any purpose under this Indenture if such obligation would not, as of December 31, 2018, have been required to be capitalized and reflected as a liability on a balance sheet in accordance with GAAP.

“*Capital Stock*” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership, partnership interests (whether general or limited);
- (4) in the case of a limited liability company, membership interests; and
- (5) 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*” means cash and the defined term “Cash Equivalents.”

“*Cash Contribution Amount*” means the aggregate amount of cash contributions made to the common equity capital of the Issuer or any Restricted Subsidiary described in the definition of “Contribution Indebtedness.”

“*Cash Equivalents*” means:

- (1) United States dollars, Canadian dollars, pounds sterling, euros, the national currency of any participating member state of the European Union or, in the case of any Foreign Subsidiary, such local currencies held by it from time to time in the ordinary course of business;
- (2) readily marketable direct obligations of any member of the European Economic Area, Switzerland, or Japan, or any agency or instrumentality thereof or obligations unconditionally guaranteed

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by the full faith and credit of such country, and, at the time of acquisition thereof, having a credit rating of at least Aa3 (or the equivalent grade) by Moody's or AA- by S&P;

(3) marketable general obligations issued by (a) any state of the United States or any political subdivision thereof or any instrumentality thereof that are guaranteed by the full faith and credit of such state or (b) Canada or any agency or instrumentality thereof that are guaranteed by the full faith and credit of Canada, and in each case, at the time of acquisition thereof, having a credit rating of at least Aa3 (or the equivalent grade) by Moody's or AA- by S&P;

(4) securities or any other evidence of Indebtedness or readily marketable direct obligations issued or directly and fully guaranteed or insured by (a) the United States government or any agency or instrumentality of the United States government, the U.K. government or any agency or instrumentality of the U.K. government, any constituent nation of the U.K. or any agency or instrumentality thereof, or any member of the European Union or any agency or instrumentality thereof; *provided* that the full faith and credit of the United States, the U.K., or such member, as the case may be, is pledged in support of those securities or (b) Canada or any agency or instrumentality thereof; *provided* that the full faith and credit of Canada is pledged in support of those securities, and in each case, having maturities of not more than 24 months from the date of acquisition;

(5) certificates of deposit 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 commercial bank having capital and surplus in excess of \$250.0 million in the case of domestic banks or \$100.0 million (or the dollar equivalent thereof) in the case of foreign banks;

(6) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (4) and (5) above entered into with any financial institution meeting the qualifications specified in clause (5) above;

(7) commercial paper having one of the two highest ratings obtainable from Moody's or S&P and, in each case, maturing within 24 months after the date of acquisition;

(8) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (7) of this definition; and

(9) Indebtedness or preferred stock issued by Persons with a rating of A or higher from S&P or A2 from Moody's with maturities of 24 months or less from the date of acquisition.

"Cash Management Services" means any of the following to the extent not constituting a line of credit (other than an overnight draft facility that is not in default): automated clearing house transactions, treasury and/or cash management services, including, without limitation, controlled disbursement services, overdraft facilities, foreign exchange facilities, deposit and other accounts and merchant services.

"CFC" means a controlled foreign corporation within the meaning of Section 957 of the Code.

"Change of Control" means the occurrence of any of the following:

(1) any person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act, but excluding any employee benefit plan and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), other than one or more Permitted Holders, acquires beneficial ownership of Voting Stock of the Issuer representing more than 50% of the aggregate ordinary voting power for the election of directors of the Issuer (determined on a fully diluted basis); or

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(2) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Issuer and its Subsidiaries, taken as a whole, to any Person other than one or more Permitted Holders.

Notwithstanding the preceding, a conversion of the Issuer or any Restricted Subsidiary from a limited liability company, corporation, limited partnership or other form of entity to a limited liability company, corporation, limited partnership or other form of entity or an exchange of all of the outstanding Capital Stock in one form of entity for Capital Stock for another form of entity shall not constitute a Change of Control, so long as immediately following such conversion or exchange the “persons” (as that term is used in Section 13(d)(3) of the Exchange Act) who Beneficially Owned the Capital Stock of such entity immediately prior to such transactions continue to Beneficially Own in the aggregate more than 50% of the Voting Stock of such entity, or continue to Beneficially Own sufficient Equity Interests in such entity to elect a majority of its directors, managers, trustees or other persons serving in a similar capacity for such entity, and in either case no “person” Beneficially Owns more than 50% of the Voting Stock of such entity. Furthermore, (i) the transfer of assets between or among the Issuer and its Restricted Subsidiaries shall not itself constitute a Change of Control and (ii) a Person or group shall not be deemed to have beneficial ownership of securities subject to a stock purchase agreement, merger agreement or similar agreement (or voting or option agreement related thereto) prior to the consummation of the transactions contemplated by such agreement.

“*Clearstream*” means Clearstream Banking, S.A.

“*Code*” means the U.S. Internal Revenue Code of 1986, as amended from time to time and the regulations promulgated thereunder.

“*Commission*” means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or if at any time after the execution of this Indenture such Commission is not existing and performing the duties now assigned to it under the Securities Act of 1933, as amended, the Exchange Act and the Trust Indenture Act then the body performing such duties at such time.

“*Consolidated EBITDA*” means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus*, without duplication:

(1) provision for Taxes based on income, profits or capital (including state franchise Taxes and similar Taxes in the nature of income tax) of such Person and its Restricted Subsidiaries for such period, foreign withholding Taxes, giving effect to any payroll tax credits, income tax credits and similar credits and including an amount equal to the tax distributions actually made to the holders of the Capital Stock of such Person or its Restricted Subsidiaries or any direct or indirect parent of such Person or its Restricted Subsidiaries in respect of such period in accordance with clause (3) of the definition of “Permitted Payments to Parent,” as though such amounts had been paid as income Taxes directly by such Person, in each case, to the extent that such provision for Taxes was deducted in computing such Consolidated Net Income; *plus*

(2) the consolidated depreciation and amortization charges and expense of such Person and its Restricted Subsidiaries for such period (including (i) amortization of deferred financing fees and debt issuance costs, commissions, fees and expenses, (ii) amortization of unrecognized prior service costs and actuarial gains and losses related to pensions and other post-employment benefits and (iii) amortization of intangibles (including, without limitation, amortization of turnaround costs, goodwill and organizational costs) (excluding any such adjustment to the extent that it represents an accrual of or reserve for cash expenditures in any future period except to the extent such adjustment is subsequently reversed), in each case of such Person and its Restricted Subsidiaries for such period on a consolidated basis in accordance with GAAP) to the extent such charges or expenses were deducted in computing such Consolidated Net Income; *plus*

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(3) the Fixed Charges of such Person and its Restricted Subsidiaries for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; *plus*

(4) any other consolidated non-cash losses, charges and expenses of such Person and its Restricted Subsidiaries, including any write-offs or write-downs, for such period, to the extent that such consolidated non-cash charges were included in computing such Consolidated Net Income; *provided* that if any such non-cash charge represents an accrual or reserve for anticipated cash charges in any future period, (i) such Person may determine not to add back such non-cash charge in the period for which Consolidated EBITDA is being calculated and (ii) to the extent such Person does decide to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period; *plus*

(5) any losses from foreign currency transactions (including losses related to currency remeasurements of Indebtedness) of such Person and its Restricted Subsidiaries for such period, to the extent that such losses were taken into account in computing such Consolidated Net Income; *plus*

(6) subject to the Cost Savings Cap, the Specified Permitted Adjustments and any other cost savings, operating expense reductions, operating improvements and synergies permitted to be added back to this definition pursuant to the definition of “Pro Forma Cost Savings” (including, without limitation, expenses attributable to the implementation of such cost savings initiatives and costs and expenses incurred after the Acquisition Date related to employment of terminated employees incurred by such Person during such period to the extent such costs and expenses were deducted in computing Consolidated Net Income); *plus*

(7) losses in respect of post-retirement benefits of such Person, as a result of the application of ASC 715, *Compensation-Retirement Benefits*, to the extent that such losses were deducted in computing such Consolidated Net Income; *plus*

(8) the amount of fees, expenses and indemnities incurred by such Person pursuant to clauses (7) and (20) of Section 4.11(b) hereof; *plus*

(9) any proceeds from business interruption insurance received by such Person during such period, to the extent the associated losses arising out of the event that resulted in the payment of such business interruption insurance proceeds were included in computing Consolidated Net Income; *plus*

(10) [reserved]; *plus*

(11) [reserved]; *plus*

(12) the amount of any interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any Restricted Subsidiary of such Person that is not a Wholly Owned Restricted Subsidiary of such Person; *plus*

(13) any contingent or deferred payments (including, without limitation, earn-out payments, noncompete payments and consulting payments) incurred in connection with any acquisition or other Investment and paid or accrued during the applicable period; *plus*

(14) with respect to any joint venture that is not a Restricted Subsidiary, an amount equal to the proportion of those items described in clauses (1), (2) and (3) above relating to such joint venture corresponding to such Person’s and its Restricted Subsidiaries’ proportionate share of such joint venture’s Consolidated Net Income (determined as if such joint venture were a Restricted Subsidiary) solely to the extent Consolidated Net Income of such joint venture was reduced thereby; *minus*

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(15) the amount of any gain in respect of post-retirement benefits as a result of the application of ASC 715, to the extent such gains were taken into account in computing such Consolidated Net Income; *minus*

(16) any gains from foreign currency transactions (including gains related to currency remeasurements of Indebtedness) of such Person and its Restricted Subsidiaries for such period, to the extent that such gains were taken into account in computing such Consolidated Net Income; *minus*

(17) non-cash gains increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business and other than reversals of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period;

provided that the Issuer may, in its sole discretion, elect to not make any adjustment for any item pursuant to the foregoing clauses (1) through (17) above if any such item individually is less than \$2.0 million in any fiscal quarter.

Unless otherwise specified in this Indenture, any reference to Consolidated EBITDA shall be deemed to mean the Consolidated EBITDA of the Issuer and its Restricted Subsidiaries calculated for the most recent period of four consecutive fiscal quarters for which internal financial statements are available immediately preceding the date on which such calculation is made, calculated on a Pro Forma Basis for such period.

“*Consolidated Interest Expense*” means, for any period of four consecutive fiscal quarters for which internal financial statements are available immediately preceding the date on which such calculation is made, for the Issuer and its Restricted Subsidiaries on a consolidated basis, all cash interest, premium payments, debt discount, charges and related fees and expenses, net of interest income, of the Issuer and its Restricted Subsidiaries in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, excluding (a) up-front or financing fees, transaction costs, commissions, expenses, premiums or charges, (b) costs associated with obtaining, or breakage costs in respect of swap or hedging agreements, (c) amortization of deferred financing costs and (d) all cash dividends, whether paid or accrued, on any series of preferred stock or any series of Disqualified Stock of such Person or any of its Restricted Subsidiaries, excluding items eliminated in consolidation, in each case, determined on a consolidated basis in accordance with GAAP. Notwithstanding the foregoing, for purposes of calculating Consolidated Interest Expenses for any period that includes a fiscal quarter (or portion thereof) prior to the Acquisition Date (other than as a component of Consolidated EBITDA), Consolidated Interest Expenses shall be calculated from the period from the Acquisition Date to the date of determination divided by the number of days in such period and multiplied by 365.

“*Consolidated Net Income*” means, with respect to any specified Person for any period, the aggregate of the net income (loss) of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP and without any reduction in respect of (x) preferred stock dividends or (y) any dividend with proceeds of the offering of the Unsecured Notes; *provided* that:

(1) any after-tax effect of all extraordinary, nonrecurring or unusual gains or losses or income or expenses or charges (including related to the Transactions) or any restructuring charges or reserves, including, without limitation, any expenses related to any reconstruction, recommissioning or reconfiguration of fixed assets for alternate uses, retention, severance, system establishment cost, contract termination costs, costs to consolidate facilities and relocate employees, advisor fees and other out of pocket costs and non-cash charges to assess and execute operational improvement plans and restructuring programs, will be excluded;

(2) any expenses, costs or charges incurred, or any amortization thereof for such period, in connection with any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or incurrence or repayment of, or amendment or waiver of the operative documents with respect to, Indebtedness permitted under this Indenture, including a refinancing thereof (in each case whether or not

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successful) (including any such costs and charges incurred in connection with the Transactions), and all gains and losses realized in connection with any business disposition or any disposition of assets outside the ordinary course of business or the disposition of securities or the early extinguishment of Indebtedness or other derivative instruments, together with any related provision for taxes on any such gain, loss, income or expense will be excluded;

(3) the net income (or loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be excluded, *provided* that the income of such Person will be included to the extent of the amount of dividends or similar distributions paid in cash (or converted to cash) to the specified Person or a Restricted Subsidiary of the Person;

(4) the net income (or loss) of any Person and its Restricted Subsidiaries will be calculated without deducting the income attributed to, or adding the losses attributed to, the minority equity interests of third parties in any non-Wholly Owned Restricted Subsidiary except to the extent of the dividends paid in cash (or convertible into cash) during such period on the shares of Capital Stock of such Restricted Subsidiary held by such third parties;

(5) solely for the purpose of Section 4.07 hereof, the net income (but not loss) of any Restricted Subsidiary (other than any Guarantor) will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that net income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restrictions with respect to the payment of dividends or similar distributions have been legally waived; *provided* that the Consolidated Net Income of such Person will be increased by the amount of dividends or distributions or other payments actually paid in cash (or converted to cash) by any such Restricted Subsidiary to such Person in respect of such period, to the extent not already included therein;

(6) the cumulative effect of any change in accounting principles will be excluded;

(7) (a) any non-cash expenses resulting from the grant or periodic remeasurement of stock options, restricted stock grants or other equity incentive programs (including any stock appreciation and similar rights) and (b) any costs or expenses incurred pursuant to any management equity plan or stock option plan or other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent, in the case of clause (b), that such costs or expenses are funded with cash proceeds contributed to the common equity capital of the Issuer or a Restricted Subsidiary of the Issuer, will be excluded;

(8) the effect of any non-cash impairment charges or write-ups, write-downs or write-offs of assets or liabilities resulting from the application of GAAP and the amortization of intangibles and other fair value adjustments arising from the application of GAAP, including pursuant to ASC 805, *Business Combinations*, ASC 350, *Intangibles-Goodwill and Other*, or ASC 360, *Property, Plant and Equipment*, as applicable, will be excluded;

(9) any net after-tax income or loss from disposed, abandoned or discontinued or transferred or closed operations and any net after-tax gains or losses on disposed, abandoned or discontinued, transferred or closed operations will be excluded;

(10) any increase in amortization or depreciation, or effect of any adjustments to inventory, property, plant or equipment, software, goodwill and other intangibles, debt line items, deferred revenue or rent expense, any one time cash charges (such as purchased in process research and development or capitalized manufacturing profit in inventory) or any other effects, in each case, resulting from purchase

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accounting in connection with the Transactions or any other acquisition prior to or following the Acquisition Date will be excluded;

(11) an amount equal to the tax distributions actually made to the holders of the Capital Stock of such Person or any direct or indirect parent of such Person in respect of such period in accordance with clause (3) of the definition of “Permitted Payments to Parent” will be included as though such amounts had been paid as income taxes directly by such Person for such period;

(12) unrealized gains and losses relating to foreign currency translation or foreign currency transactions, including those relating to mark-to-market of Indebtedness resulting from the application of GAAP, including pursuant to ASC 830, *Foreign Currency Matters* (including any net loss or gain resulting from hedge arrangements for currency exchange risk) will be excluded;

(13) any net gain or loss from Hedging Obligations or in connection with the early extinguishment of Hedging Obligations (including of ASC 815, *Derivatives and Hedging*) shall be excluded;

(14) the amount of any restructuring, business optimization, acquisition and integration costs and charges (including, without limitation, retention, severance, systems establishment costs, excess pension charges, information technology costs, rebranding costs, recruiting and signing bonuses and expenses, contract termination costs, including future lease commitments, costs related to the start-up (including entry into new market/channels and new service offerings), preopening, opening, closure or relocation, reconfiguration or consolidation of facilities and costs to relocate employees, systems, facilities or equipment conversion costs, consulting fees, costs associated with tax projects and audits) or other fees related to any of the foregoing (including any such costs, charges and fees incurred in connection with the Transactions) will be excluded;

(15) accruals and reserves that are established or adjusted within 24 months after the Acquisition Date that are so required to be established as a result of the Transactions in accordance with GAAP shall be excluded;

(16) any Public Company Costs will be excluded;

(17) all amortization and write-offs of deferred financing fees, debt issuance costs, commissions, fees and expenses, costs of surety bonds, charges owed with respect to letters of credit, bankers’ acceptances or similar facilities, and expensing of any bridge, commitment or other financing fees (including in connection with a transaction undertaken but not completed), will be excluded;

(18) [reserved];

(19) (i) the non-cash portion of “straight-line” rent expense will be excluded and (ii) the cash portion of “straight-line” rent expense that exceeds the amount expensed in respect of such rent expense will be included;

(20) losses, charges and expenses that are covered by indemnification or other reimbursement provisions in connection with any asset disposition will be excluded to the extent actually reimbursed, or, so long as such Person has made a determination that a reasonable basis exists for indemnification or reimbursement, but only to the extent that such amount is in fact indemnified or reimbursed within 365 days of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so indemnified or reimbursed within such 365 days);

(21) non-cash charges or income relating to adjustments to deferred tax asset valuation allowances will be excluded; and

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(22) cash dividends or returns of capital from Investments (such return of capital not reducing the ownership interest in the underlying Investment), in each case received during such period, to the extent not otherwise included in Consolidated Net Income for that period or any prior period subsequent to the Acquisition Date will be included;

provided that the Issuer may, in its sole discretion, elect to not make any adjustment for any item pursuant to the foregoing clauses (1) through (22) above if any such item individually is less than \$2.0 million in any fiscal quarter.

“*Consolidated Senior Secured Debt Ratio*” means, as of any date of determination, the ratio of (1) (x) Consolidated Total Indebtedness that is secured by a Lien on any assets of the Issuer or any of its Restricted Subsidiaries as of such date *minus* (y) unrestricted cash and Cash Equivalents (but excluding in all cases cash proceeds from Indebtedness incurred on the date of determination) held by the Issuer and its Restricted Subsidiaries as of such date of determination, in each case, calculated on a Pro Forma Basis to (2) the Consolidated EBITDA for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding such date, and in each case, calculated on a Pro Forma Basis.

“*Consolidated Total Debt Ratio*” means, as of any date of determination, the ratio of (1) (x) Consolidated Total Indebtedness as of such date *minus* (y) unrestricted cash and Cash Equivalents held by the Issuer and its Restricted Subsidiaries as of such date of determination, and in each case, calculated on a Pro Forma Basis to (2) the Consolidated EBITDA of the Issuer for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding such date, calculated on a Pro Forma Basis.

“*Consolidated Total Indebtedness*” means, as of any date of determination, an amount equal to the sum of (without duplication) (i) all Capital Lease Obligations of the Issuer and its Restricted Subsidiaries, (ii) all Indebtedness of the Issuer and its Restricted Subsidiaries of the type described in clause (1) of the definition of “Indebtedness” and (iii) all Contingent Obligations of the Issuer and its Restricted Subsidiaries in respect of Indebtedness of any third Person of the type referred to in the preceding clauses (i) and (ii), in each case, determined on a consolidated basis in accordance with GAAP and calculated on a Pro Forma Basis; *provided* that Consolidated Total Indebtedness shall not include Indebtedness in respect of any notes or other debt securities that have been defeased or satisfied and discharged in accordance with the applicable indenture or with respect to which the required deposit has been made in connection with a call for repurchase or redemption to occur within the time period set forth in the applicable indenture, in each case to the extent such transactions are permitted by the applicable indenture. For the avoidance of doubt, it is understood that any undrawn amounts under any revolving credit facility do not constitute Consolidated Total Indebtedness.

“*Contingent Obligation*” shall mean, as to any Person, any obligation of such Person as a result of such Person being a general partner of any other Person, unless the underlying obligation is expressly made nonrecourse as to such general partner, and any obligation of such Person guaranteeing or intended to guarantee any Indebtedness (“*primary obligations*”) of any other Person (the “*primary obligor*”) in any manner, whether directly or indirectly, including, without limitation, any such 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 (x) for the purchase or payment of any such primary obligation or (y) to maintain working capital or equity capital 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 holder of such primary obligation against loss in respect thereof; provided, however, that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

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“*continuing*” means, with respect to any Default or Event of Default, that such Default or Event of Default has not been cured or waived.

“*Contribution Indebtedness*” means Indebtedness or Disqualified Stock of the Issuer or any Restricted Subsidiary of the Issuer and preferred stock of any Restricted Subsidiary in an aggregate principal amount not greater than one times the aggregate amount of cash contributions (other than Excluded Contributions, Designated Preferred Stock, Disqualified Stock or cash contributed by the Issuer or a Restricted Subsidiary of the Issuer) made to the common equity capital of the Issuer or any Restricted Subsidiary of the Issuer after the Acquisition Date; *provided that*:

(1) the cash received or contributed shall not increase the amount available for making Restricted Payments to the extent the Issuer or its Restricted Subsidiaries incurred Indebtedness in reliance thereon;

(2) the cash received or contributed shall be excluded for purposes of incurring Indebtedness to the extent the Issuer or any of its Restricted Subsidiaries make a Restricted Payment in reliance on such cash; and

(3) such Contribution Indebtedness (a) is incurred within 210 days after the making of such cash contributions and (b) is so designated as Contribution Indebtedness pursuant to an Officer’s Certificate on the date of incurrence thereof.

“*Corporate Trust Office*” will be the office of the Trustee at which at any particular time its corporate trust business relating to this Indenture shall be principally administered, which office as of the date of this instrument is located at the address specified in Section 13.01 hereof, except that with respect to presentation of Unsecured Notes for payment or for registration of transfer or exchange, such term shall mean the office or agency of the Trustee at which at any particular time its corporate agency business shall be conducted, which office at the date of this instrument is located at The Bank of New York Mellon Trust Company, N.A., 2 N. LaSalle Street – Suite 700, Chicago, IL 60602, Fax: (312) 827-8542, Attention: Corporate Trust Administration, or, in the case of any of such offices or agency, such other address as the Trustee may designate from time to time by notice to the Issuer.

“*Credit Agreement*” means (i) the New ABL Credit Agreement and (ii) whether or not the New ABL Credit Agreement remains outstanding, if designated by the Issuer to be included in the definition of “Credit Agreement,” one or more (A) debt facilities, indentures or commercial paper facilities providing for revolving credit loans, term loans, notes, debentures, receivables financing (including through the sale of receivables to lenders or to special purpose entities formed to borrow from lenders against such receivables) or letters of credit, (B) debt securities, notes, mortgages, guarantees, collateral documents, indentures or other forms of debt financing (including convertible or exchangeable debt instruments or bank guarantees or bankers’ acceptances), or (C) instruments or agreements evidencing any other Indebtedness, in each case, with the same or different borrowers or issuers and, in each case, as amended, supplemented, modified, extended, restructured, renewed, refinanced, restated, increased (provided that such increase in borrowings is permitted under this Indenture), replaced or refunded in whole or in part from time to time and whether by the same or any other agent, lender or investor or group of lenders or investors.

“*Custodian*” means the Trustee, as custodian with respect to the Unsecured Notes in global form, or any successor entity thereto.

“*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 Unsecured Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such

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Unsecured 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 Unsecured 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 Unsecured 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 one of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, less the amount of Cash Equivalents received in connection with a subsequent sale of such Designated Non-cash Consideration.

“*Designated Preferred Stock*” means preferred stock of the Issuer or any direct or indirect parent of the Issuer (other than Disqualified Stock), that is issued for cash (other than to the Issuer or any of its Subsidiaries or an employee stock 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 date of issuance thereof, the cash proceeds of which are excluded from the calculation set forth in clause (z) of Section 4.07(a) hereof.

“*Disinterested Director*” means, with respect to any proposed transaction between (i) the Issuer or a Restricted Subsidiary, as applicable, and (ii) an Affiliate thereof (other than the Issuer or a Restricted Subsidiary), a member of the Board of Directors of the Issuer or such Restricted Subsidiary, as applicable, who would not be a party to, or have a financial interest in, such transaction and is not an officer, director or employee of, and does not have a financial interest in, such Affiliate. For purposes of this definition, no person would be deemed not to be a Disinterested Director solely because such person holds Capital Stock in the Issuer or is an employee of the Issuer.

“*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, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Unsecured Notes mature; *provided, however*, that only the portion of Capital Stock that so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Stock; *provided, further, however*, that if such Capital Stock is issued to any employee or to any plan for the benefit of employees of the Issuer, any direct or indirect parent of the Issuer or the Issuer’s Restricted Subsidiaries or by any such plan to such employees, such Capital Stock will not constitute Disqualified Stock solely because it may be required to be repurchased by the Issuer in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability; *provided, further*, that any class of Capital Stock of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Capital Stock that is not Disqualified Stock will not be deemed to be Disqualified Stock. Capital Stock will not 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.

“*Dividing Person*” has the meaning assigned to it in the definition of “Division.”

“*Division*” means the division of the assets, liabilities and/or obligations of a Person (the “*Dividing Person*”) among two or more Persons (whether pursuant to a “plan of division” or similar arrangement), which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

“*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.

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“Eligible Escrow Investments” means any of the following securities: (1) investment in obligations issued or guaranteed by the United States government or any agency thereof, in each case, maturing no later than the Outside Date, (2) demand deposits, including interest bearing money market accounts, time deposits, trust funds, trust accounts, overnight bank deposits, interest-bearing deposits, and certificates of deposit or bankers acceptances of depository institutions in each case maturing no later than the Outside Date, (3) investments in commercial paper maturing no later than the Outside Date and having, at the date of acquisition, a credit rating no lower than A-1 from Standard & Poor’s Ratings Service, P-1 from Moody’s Investors Service, Inc., or F-1 from Fitch Ratings Ltd., (4) repurchase obligations maturing no later than the Outside Date entered into with a nationally recognized broker-dealer, with respect to which the purchased securities are obligations issued or guaranteed by the United States government or any agency thereof, which repurchase obligations shall be entered into pursuant to written agreements and (5) investment in money market mutual funds having a rating in the highest investment category granted thereby from S&P or Moody’s, including those for which the Trustee or an affiliate receives and retains a fee for services provided to the fund, whether as a custodian, transfer agent, investment advisor or otherwise.

“Equity Commitment Letter” means the irrevocable equity commitment letter Platinum Equity Capital Partners International IV (Cayman), L.P. (*“PECPI IV”*) dated as of the Issue Date and issued to the Initial Issuer, for the benefit of the Trustee, the Escrow Agent and the Holders, that requires PECPI IV, upon receipt of a notice of a Special Mandatory Redemption, to transfer an amount of cash in U.S. dollars to the Initial Issuer that will be sufficient to fund accrued and unpaid interest (and accretion, if any) on the Unsecured Notes to, but not including, the Special Mandatory Redemption Date, pursuant to such Special Mandatory Redemption, plus fees and expenses of the Trustee and Escrow Agent.

“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 Investment” means a cash equity investment by the Sponsor and management, in an aggregate amount of approximately \$266.1 million to finance the Acquisition.

“Equity Offering” means a public or private sale after the Acquisition Date of either (1) Equity Interests of the Issuer by the Issuer (other than Disqualified Stock and other than to a Subsidiary of the Issuer or any direct or indirect parent of the Issuer) or (2) Equity Interests of a direct or indirect parent of the Issuer (other than to the Issuer, a Subsidiary of the Issuer or any direct or indirect parent of the Issuer), in each case other than public offerings with respect to the Issuer’s or any direct or indirect parent company’s common stock registered on Form S-8, and any such public or private sale that constitutes an Excluded Contribution.

“Escrow Agreement” means the escrow agreement dated as of the Issue Date among the Initial Issuer, the Trustee and The Bank of New York Mellon, as Escrow Agent (the *“Escrow Agent”*) with respect to the proceeds of the Unsecured Notes.

“Euroclear” means Euroclear Bank, S.A./N.V., as operator of the Euroclear system.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Excluded Contributions” means the net cash proceeds, Cash Equivalents and/or Fair Market Value of Investment Grade Securities received by the Issuer after the Acquisition Date from:

- (1) contributions to its common equity capital; and
- (2) the sale (other than to the Issuer or to a Subsidiary of the Issuer 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 the Issuer) of Capital Stock (other than Disqualified Stock or Designated Preferred Stock) of the Issuer;

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in each case designated as Excluded Contributions pursuant to an Officer's Certificate, the proceeds of which are excluded from the calculation set forth in Section 4.07(a)(z).

"Excluded Subsidiaries" means Unrestricted Subsidiaries, Immaterial Subsidiaries, Regulated Subsidiaries, not for profit Subsidiaries, Foreign Subsidiaries (other than, following 90 days after the Acquisition Date, the U.K. Guarantors), FSHCOs, Subsidiaries that are not Wholly Owned Subsidiaries of the Issuer or one or more of its Wholly Owned Restricted Subsidiaries, special purpose entities, any Subsidiary with respect to which the provision of a guarantee by such Subsidiary would result in material adverse tax consequences to the Issuer or to a Subsidiary of the Issuer as reasonably determined by the Issuer (other than, following 90 days after the Acquisition Date, material adverse tax consequences under Section 956 of the Code with respect to a U.K. Guarantor), any Subsidiary that is created solely for the purpose of consummating a transaction that constitutes a permitted acquisition under this Indenture, 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 transaction; *provided* that such new Subsidiary shall not be required to provide an Unsecured Note Guarantee until the respective acquisition is consummated (at which time the surviving or transferee entity of the respective transaction and its Subsidiaries shall be required to so comply in accordance with this Indenture's guarantee provisions and such Subsidiary shall no longer constitute an Excluded Subsidiary), any Domestic Subsidiary of a Foreign Subsidiary that is a CFC (other than, following 90 days after the Acquisition Date, a CFC that is a U.K. Guarantor) and any Subsidiary that is prohibited, but only so long as such Subsidiary would be prohibited, by applicable law, rule or regulation or by any contractual obligation existing on the date of this Indenture or existing at the time of acquisition thereof after the date of this Indenture (so long as such prohibition did not arise as part of such acquisition), in each case, from guaranteeing the Unsecured Notes or which would require governmental (including regulatory) consent, approval, license or authorization to provide an Unsecured Note Guarantee unless such consent, approval, license or authorization has been received (but without obligation to seek the same).

"Existing Pattonair ABL Credit Facility" means that certain facility agreement, dated as of August 11, 2017 (as amended and restated on October 31, 2017 and as further amended, restated, supplemented or otherwise modified from time to time), by and among Pattonair Group Ltd., the other parties thereto as borrowers and guarantors, the financial institutions from time to time party thereto and Wells Fargo Capital Finance (UK) Limited, as administrative agent and security trustee, providing for a £100 million aggregate principal amount asset-based revolving credit facility, subject to borrowing base availability.

"Existing Pattonair Indebtedness" refers, prior to the consummation of the Transactions, collectively, to the Existing Pattonair Notes and any amounts outstanding under the Existing Pattonair ABL Credit Facility.

"Existing Pattonair Notes" means \$280.0 million aggregate principal amount of 9.00% Senior Secured Notes due 2022 issued pursuant to that certain indenture, dated as of October 31, 2017 (as amended, restated, supplemented or otherwise modified from time to time), by and among Pattonair and Pioneer Finance Corporation, as co-issuers, the guarantors party thereto from time to time and The Bank of New York Mellon Trust Company, N.A., as trustee and notes collateral agent.

"Existing Wesco Aircraft Credit Agreement" refers to that certain credit agreement, dated as of December 7, 2012 (as amended, restated, supplemented or otherwise modified from time to time), by and among the Ultimate Issuer, Wesco Aircraft Hardware Corp., the lenders from time to time party thereto, and Barclays Bank PLC, as administrative agent and collateral agent, providing for (i) a \$180.0 million revolving credit facility (the *"Existing Wesco Aircraft Revolving Credit Facility"*), (ii) a senior secured term loan A facility in an aggregate principal amount of \$400.0 million (the *"Existing Wesco Aircraft Term Loan A Facility"*) and (iii) a senior secured term loan B facility in an aggregate principal amount of \$525.0 million (the *"Existing Wesco Aircraft Term Loan B Facility"*) and, together with the Existing Wesco Aircraft Term Loan A Facility, the *"Existing Wesco Aircraft Term Loan Facilities"*).

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“*Existing Wesco Aircraft Indebtedness*” refers, prior to the consummation of the Transactions, collectively, to the Existing Wesco Aircraft Term Loan Facilities and any amounts outstanding under the (i) Existing Wesco Aircraft Revolving Credit Facility and (ii) the Existing Wesco Aircraft Overdraft Facility.

“*Existing Wesco Aircraft Overdraft Facility*” refers to that certain Overdraft Facility, dated as of April 3, 2019, as amended or otherwise modified from time to time, among certain subsidiaries of the Ultimate Issuer and Lloyds Bank plc.

“*Fair Market Value*” means the value (which, for the avoidance of doubt, will take into account any liabilities, contingent or otherwise, associated with related assets) that would be paid by a willing buyer to an unaffiliated willing seller in an arm’s-length transaction, determined in good faith by the Issuer (unless otherwise provided in this Indenture).

“*Fixed Charge Coverage Ratio*” means, with respect to any Person as of any date, the ratio of (1) Consolidated EBITDA of such Person for the most recent period of four consecutive fiscal quarters for which internal financial statements are available immediately preceding the date on which such calculation of the Fixed Charge Coverage Ratio is made, calculated on a Pro Forma Basis for such period to (2) the Fixed Charges of such Person for such period calculated on a Pro Forma Basis. In the event that the Issuer or any of its Restricted Subsidiaries incurs or redeems or repays any Indebtedness (other than in the case of revolving credit borrowings unless the related commitments have been terminated and such Indebtedness has been permanently repaid and has not been replaced) or issues or redeems preferred stock or Disqualified Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to, substantially simultaneously with or in connection with the event for which the calculation of the Fixed Charge Coverage Ratio is made, then the Fixed Charge Coverage Ratio shall be calculated on a Pro Forma Basis.

“*Fixed Charges*” means, with respect to any specified Person for any period, the sum, without duplication, of:

(1) the Consolidated Interest Expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, to the extent such expense was deducted in computing Consolidated Net Income, including, without limitation, amortization of original issue discount, the interest component of all payments associated with Capital Lease Obligations, and the net of the effect of all payments made or received pursuant to Hedging Obligations in respect of interest rates (other than in connection with the early termination thereof, and excluding any non-cash interest expense attributable to the mark-to-market valuation of Hedging Obligations or other derivatives pursuant to GAAP) and excluding amortization or write-off of deferred financing fees, debt issuance costs, commissions, discounts, fees and expenses, including any expensing of bridge, commitment fees or other financing fees, costs of surety bonds, charges owed with respect to letters of credit, bankers’ acceptances or similar facilities, the non-cash portion of interest expense resulting from the reduction in the carrying value under purchase accounting of the Issuer’s outstanding Indebtedness; *provided* that, for purposes of calculating Consolidated Interest Expense, no effect will be given to the discount and/or premium resulting from the bifurcation of derivatives under ASC 815, *Derivatives and Hedging*, as a result of the terms of the Indebtedness to which such Consolidated Interest Expense applies; *plus*

(2) the Consolidated Interest Expense of such Person and its Restricted Subsidiaries that was capitalized during such period; *plus*

(3) all cash dividends, whether paid or accrued, on any series of preferred stock or any series of Disqualified Stock of such Person or any of its Restricted Subsidiaries, excluding items eliminated in consolidation, in each case, determined on a consolidated basis in accordance with GAAP; *minus*

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(4) the consolidated interest income of such Person and its Restricted Subsidiaries for such period, whether received or accrued, to the extent such income was included in determining Consolidated Net Income;

provided that (a) when determining Consolidated Interest Expense in respect of any four-quarter period ending prior to the first anniversary of the Issue Date, Consolidated Interest Expense will be calculated by multiplying the aggregate Consolidated Interest Expense accrued since the Issue Date by 365 and then dividing such product by the number of days from and including the Issue Date to and including the last day of such period and (b) in the case of any Person that became a Restricted Subsidiary of such Person after the commencement of such four-quarter period, the interest expense of such Person paid in cash prior to the date on which it became a Restricted Subsidiary of such Person will be disregarded. For purposes of this definition, interest on Capital Lease Obligations will be deemed to accrue at the interest rate reasonably determined by such Person to be the rate of interest implicit in such Capital Lease Obligations in accordance with GAAP.

“*Fixed GAAP Date*” means the Issue Date; *provided* that at any time after the Issue Date, the Issuer may by written notice to the Trustee elect to change the Fixed GAAP Date to be the date specified in such notice, and upon such notice, the Fixed GAAP Date shall be such date for all periods beginning on and after the date specified in such notice.

“*Fixed GAAP Terms*” means (a) the definitions of the terms “Fixed Charges,” “Fixed Charge Coverage Ratio,” “Consolidated Interest Expense,” “Consolidated Net Income,” “Consolidated Senior Secured Debt Ratio,” “Consolidated Total Debt Ratio,” “Consolidated Total Indebtedness,” “Consolidated EBITDA,” “Indebtedness,” and “Total Assets,” (b) all defined terms in this Indenture to the extent used in or relating to any of the foregoing definitions, and all ratios and computations based on any of the foregoing definitions, and (c) any other term or provision of this Indenture or the Unsecured Notes that, at the Issuer’s election, may be specified by the Issuer by written notice to the Trustee from time to time; *provided* that the Issuer may elect to remove any term from constituting a Fixed GAAP Term.

“*Foreign Subsidiary*” means any Restricted Subsidiary of the Issuer that is not a Domestic Subsidiary.

“*FSHCO*” means (i) any Domestic Subsidiary that has no material assets other than equity interests (or equity interests and indebtedness) of one or more Foreign Subsidiaries that are CFCs (other than, following 90 days after the Acquisition Date, CFCs that are U.K. Guarantors) and (ii) any Domestic Subsidiary that has no material assets other than equity interests (or equity interests and indebtedness) in one or more Foreign Subsidiaries that are CFCs (other than, following 90 days after the Acquisition Date, CFCs that are U.K. Guarantors) and/or, directly or indirectly, in one or more other entities described in clause (i) of this definition.

“*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 Accounting Standards Codification or in such other statements by such other entity as have been approved by a significant segment of the accounting profession (but excluding the policies, rules and regulations of the Commission applicable only to public companies, and except as set forth in the definition of “Capital Lease Obligation”), as in effect on the Fixed GAAP Date (for purposes of the Fixed GAAP Terms) and as in effect from time to time (for all other purposes of this Indenture); *provided* that the Issuer may at any time elect by written notice to the Trustee to use IFRS in lieu of GAAP for financial reporting purposes and, upon any such notice, references herein to GAAP shall thereafter be construed to mean (a) for periods beginning on and after the date specified in such notice, IFRS as in effect on the date specified in such notice (for purposes of the Fixed GAAP Terms) and as in effect from time to time (for all other purposes of this Indenture) and (b) for prior periods, GAAP as defined in the first sentence of this definition. All ratios and computations based on GAAP contained in this Indenture shall be computed in conformity with GAAP. For the purposes of this Indenture, the term “consolidated,” with respect to any Person, shall mean such Person consolidated with its Restricted Subsidiaries, and shall not include any Unrestricted Subsidiary, but the interest of such Person in an Unrestricted Subsidiary will be accounted for as an Investment.

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“*Global Note Legend*” means the legend set forth in Section 2.06(g)(2) 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 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)(3) or 2.06(d)(1) hereof.

“*Government Securities*” means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.

“*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 any Subsidiary of the Issuer that executes an Unsecured Note Guarantee in accordance with the provisions of this Indenture and their respective successors and assigns that constitute Subsidiaries of the Issuer (other than Excluded Subsidiaries), in each case, until the Unsecured 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 an Unsecured Note is registered.

“*Holdings*” means Wolverine Intermediate Holding II Corporation, a Delaware corporation.

“*LAI 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 shall be issued in a denomination equal to the outstanding principal amount of the Unsecured Notes resold to Institutional Accredited Investors.

“*IFRS*” means the International Financial Reporting Standards as issued by the International Accounting Standards Board.

“*Immaterial Subsidiary*” means any Restricted Subsidiary of the Issuer that (i) has Total Assets together with all other Immaterial Subsidiaries (as determined in accordance with GAAP) of less than 5.0% of the Issuer’s Total Assets measured at the end of the most recent fiscal period for which internal financial statements are available and on a Pro Forma Basis giving effect to any acquisitions or dispositions of companies, division or lines of business since such balance sheet date and on or prior to the date of acquisition of such Subsidiary and (ii) has revenue together with all other Immaterial Subsidiaries (as determined in accordance with GAAP) for the period of four consecutive fiscal quarters ending on such date of less than 5.0% of the combined revenue of the Issuer and its Restricted Subsidiaries for such period (measured for the four quarters ended most recently for which internal

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financial statements are available and on a Pro Forma Basis giving effect to any acquisitions or dispositions of companies, division or lines of business since the start of such four quarter reference period).

“Increased Amount” means, with respect to any Indebtedness, Disqualified Stock or preferred stock, any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms or the issuance of additional Disqualified Stock or preferred stock, accretion of original issue discount or liquidation preference, any fees, underwriting discounts, commitment, ticking and similar fees, expenses and discounts, accrued and unpaid interest, premiums and other costs and expenses incurred in connection therewith and increases in the amount of Indebtedness, Disqualified Stock or preferred stock outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness.

“Indebtedness” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables, deferred compensation, deferred rent (other than for Capital Lease Obligations), and landlord allowances), 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 of deferred and unpaid purchase price of any property or services due more than 60 days 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. 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; *provided* that (a) Contingent Obligations incurred in the ordinary course of business and (b) obligations, to the extent such obligations would otherwise constitute Indebtedness, under any agreement that has been (x) irrevocably defeased in accordance with GAAP or defeased pursuant to the deposit of cash or Cash Equivalents (in an amount sufficient to satisfy all such Indebtedness obligations at maturity or redemption, as applicable, and all payments of interest and premium, if any) in a trust or account created or pledged for the sole benefit of the holders of such Indebtedness, and subject to no other Liens or (y) irrevocably satisfied and discharged pursuant to the terms of such agreement, shall in each case be deemed not to constitute Indebtedness.

The term *“Indebtedness”* shall not include any lease, concession or license of property (or Guarantee thereof) that would be considered an operating lease under GAAP as in effect as of December 31, 2018, any prepayments of deposits received from clients or customers in the ordinary course of business or consistent with past practices, or obligations under any license, permit or other approval (or Guarantees given in respect of such obligations) incurred prior to the Acquisition Date or in the ordinary course of business or consistent with past practices. Indebtedness shall be calculated without giving effect to the provisions of ASC 815, *Derivatives and Hedging* and related interpretations to the extent such provisions would otherwise increase or decrease an amount of Indebtedness for any purpose under this Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

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

“*Independent Financial Advisor*” means (a) an accounting, appraisal or investment banking firm or (b) a consultant to Persons engaged in a Permitted Business, in each case of nationally recognized standing that is, in the good faith determination of the Issuer, qualified to perform the task for which it has been engaged.

“*Indirect Participant*” means a Person who holds a beneficial interest in a Global Note through a Participant.

“*Initial Issuer*” has the meaning assigned to such term in the introductory paragraph hereto.

“*Initial Issuer Merger*” has the meaning assigned to such term in the introductory paragraph hereto.

“*Initial Purchasers*” means BofA Securities, Inc., Deutsche Bank Securities Inc., Jefferies LLC, Barclays Capital Inc., BNP Paribas Securities Corp., Goldman Sachs & Co. LLC, and HSBC Securities (USA) Inc.

“*Initial Unsecured Notes*” means the \$525.0 million aggregate principal amount of Unsecured Notes issued under this Indenture on the Issue Date.

“*Institutional Accredited Investor*” means an institution that is an “accredited investor” as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act that is not also a QIB.

“*Intercreditor Agreements*” means, collectively, the ABL Intercreditor Agreement and, if then in effect, any Pari Passu Intercreditor Agreement.

“*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.

“*Investment Grade Securities*” means:

- (1) securities issued or directly and fully guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents) and in each case with maturities not exceeding five years from the date of acquisition;
- (2) securities that have an Investment Grade Rating;
- (3) investments in any fund that invests at least 95% of its assets in investments of the type described in clause (1), (2) or (4) of this definition, which fund may also hold immaterial amounts of cash pending investment and/or distribution; and
- (4) instruments of the general type described in clause (1), (2) or (3) above in countries other than the United States customarily utilized for high quality investments and in each case with maturities not exceeding five years from the date of acquisition.

“*Investments*” means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the form of loans (including Guarantees), advances or capital contributions (excluding accounts receivable, trade credit and advances to customers and commission, travel, relocation 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 issued by any other Person, together with all items that are required to be classified as investments on a balance sheet prepared in accordance with GAAP in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. If the Issuer or any Restricted Subsidiary of the Issuer sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of the Issuer such that, after giving effect to any such

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sale or disposition, such Person is no longer a Restricted Subsidiary of the Issuer, the Issuer will 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) hereof. The acquisition by the Issuer or any Restricted Subsidiary of the Issuer of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Issuer or such Restricted 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) hereof. Except as otherwise provided in this Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value. Notwithstanding anything in this Indenture to the contrary, for purposes of Section 4.07 hereof:

(1) "Investments" shall include the portion (proportionate to the Issuer's equity interest in such Subsidiary) of the Fair Market Value of the net assets of a Subsidiary of the Issuer at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary of the Issuer, the Issuer shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary equal to an amount (if positive) equal to:

(a) the Issuer's "Investment" in such Subsidiary at the time of such redesignation;
minus

(b) the portion (proportionate to the Issuer's equity interest in such Subsidiary) of the Fair Market Value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Issuer or a direct or indirect parent of the Issuer (as evidenced by an Officer's Certificate).

"*Issue Date*" means the first date on which the Initial Unsecured Notes (excluding any Additional Unsecured Notes) are issued, which date is November 27, 2019.

"*Issuer*" has the meaning assigned to such term in the introductory paragraphs hereto.

"*joint venture*" means any joint venture or similar arrangement (in each case, regardless of legal formation), including but not limited to collaboration arrangements, profit sharing arrangements or other contractual arrangements.

"*Legal Holiday*" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed. 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.

"*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 UCC (or equivalent statutes) of any jurisdiction.

"*Management Investor*" means any Person who is an officer or otherwise a member of management of the Issuer, any of its Subsidiaries or any of its direct or indirect parent companies on the Acquisition Date, immediately after giving effect to the Transactions.

"*Maximum Incremental Leverage Amount*" means an unlimited amount of Indebtedness, Disqualified Stock and preferred stock so long as the Maximum Leverage Requirement is satisfied.

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“Maximum Leverage Requirement” means, with respect to the incurrence of any applicable Indebtedness, Disqualified Stock or preferred stock, the requirement that, on a Pro Forma Basis, after giving effect to such incurrence, the Consolidated Senior Secured Debt Ratio does not exceed 4.70 to 1.00.

“Merger Sub” has the meaning assigned to such term in the introductory paragraphs hereto.

“Moody’s” means Moody’s Investors Service, Inc.

“Net Proceeds” means the aggregate cash proceeds and Cash Equivalents received by the Issuer or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale, but excluding the assumption by the acquiring Person of Indebtedness relating to the disposed asset or other consideration received in any other non-cash form), net of the costs relating to such Asset Sale and the sale or disposition of such Designated Non-cash Consideration, including, without limitation, legal, accounting and investment banking fees, discounts and sales commissions, and any relocation expenses incurred as a result of the Asset Sale, taxes paid or payable as a result of the Asset Sale (including by way of making Permitted Payments to Parent in respect of such taxes), amounts applied to the repayment of principal, premium (if any) and interest on Indebtedness that is secured by the property or the assets that are the subject of such Asset Sale or that is otherwise required (other than pursuant to the penultimate paragraph of Section 4.10(b) hereof) to be paid as a result of such transaction, any costs associated with unwinding any related Hedging Obligations in connection with such transaction, and any deduction of appropriate amounts to be provided by the Issuer or any of its Restricted Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Issuer or any of its Restricted Subsidiaries after such sale or other disposition thereof, including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction.

“New ABL Credit Agreement” means that certain credit agreement with respect to asset-based revolving credit facility to be entered into on or about the Acquisition Date by and among the Issuer, the other borrowers party thereto, the guarantors party thereto, Bank of America, N.A., as administrative agent and as collateral agent, and the lenders, agents and other parties party thereto, and including any related notes, Guarantees, collateral documents, instruments and agreements executed in connection therewith, and, in each case, as amended, restated, supplemented, waived, renewed or otherwise modified from time to time, and (if designated by the Issuer) as replaced (whether or not upon termination, and whether with the original lenders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time, including (if designated by the Issuer) any agreement or indenture or commercial paper facilities with banks or other institutional lenders or investors extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or indenture or indentures or any successor or replacement agreement or agreements or indenture or indentures or increasing the amount loaned or issued thereunder permitted under Section 4.09 or altering the maturity thereof or adding Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

“New ABL Credit Facility” refers to a new senior secured asset-based revolving credit facility with commitments of \$375.0 million.

“Non-Guarantor Subsidiary” means any Restricted Subsidiary of the Issuer that is not a Guarantor.

“Non-Recourse Debt” means Indebtedness as to which neither the Issuer, nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness) other than the pledge of the Equity Interests of any Unrestricted Subsidiaries or (b) is directly or indirectly liable as a guarantor or otherwise other than by virtue of a pledge or the Equity Interests of any Unrestricted Subsidiaries.

“Non-U.S. Person” means a Person who is not a U.S. Person.

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“*Notes Collateral Agent*” means The Bank of New York Mellon Trust Company, N.A., in its capacity as collateral agent for the Secured Notes, together with its successors in such capacity.

“*Obligations*” means any principal, interest (including any interest, fees, expenses and other amounts accruing subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest, fees, expenses and other amounts are an allowed or allowable claim under applicable state, federal or foreign law), penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“*Offering Memorandum*” means the Issuer’s offering memorandum, dated as of November 13, 2019.

“*Officer*” means the Chairman of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, any Executive Vice President, Senior Vice President or Vice President, the Treasurer, the Secretary or the Assistant Secretary (or any person serving the equivalent function of any of the foregoing) of a Person (or of any direct or indirect parent, general partner, managing member or sole member of such Person) or any individual designated as an “Officer” for purposes of this Indenture by the Board of Directors of such Person (or the Board of Directors of any direct or indirect parent, general partner, managing member or sole member of such Person).

“*Officer’s Certificate*” means a certificate that meets the requirements set forth in this Indenture signed on behalf of the Issuer or any direct or indirect parent of the Issuer by an Officer of the Issuer or such direct or indirect parent and delivered to the Trustee; provided that where this Indenture requires an Officer’s Certificate be delivered by the Issuer, only the Issuer need sign.

“*Opinion of Counsel*” means an opinion from legal counsel who is reasonably acceptable to the Trustee and, that meets the requirements of Sections 13.02 and 13.03 hereof. The counsel may be an employee of or counsel to the Issuer or any Subsidiary of the Issuer.

“*Outside Date*” means February 8, 2020, *provided* that if at the Outside Date all closing conditions in the Acquisition Agreement have been satisfied or waived except the receipt or expiration of regulatory approvals or the Acquisition is restrained, enjoined or prohibited by any order relating to competition law, then either party thereto may extend the Outside Date to May 8, 2020 and such extension therein will automatically extend the Outside Date herein.

“*Pari Passu Intercreditor Agreement*” any intercreditor agreement, by and among the Notes Collateral Agent and each additional agent from time to time party thereto, and acknowledged by the grantors from time to time party thereto, as may be amended, restated, supplemented or replaced, in whole or in part, from time to time.

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

“*Pattonair*” refers to Pioneer Holding, LLC, a Delaware limited liability company.

“*Pattonair Group*” refers to Pioneer Holding, LLC and its consolidated subsidiaries prior to the Acquisition and the Reorganization.

“*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 and Cash Equivalents; *provided*, that any cash and Cash Equivalents received are applied in accordance with Section 4.10 hereof.

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“Permitted Business” means any business that is the same as, or reasonably related, ancillary or complementary to, any of the businesses in which the Issuer and its Restricted Subsidiaries are engaged on the Issue Date (after giving effect to the Transactions).

“Permitted Holders” means (i) each of the Principals, (ii) any Management Investor, (iii) any Related Party of any of the foregoing persons, (iv) any Permitted Parent and (v) 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,” (x) such Persons specified in clauses (i), (ii), (iii) or (iv) above, collectively, have beneficial ownership, directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Issuer or any of its direct or indirect parent entities held by such “group” and (y) the Principals and their Related Parties collectively, do not have beneficial ownership, directly or indirectly, of a lesser percentage of the Voting Stock of the Issuer or any of its direct or indirect parent entities than any other Person that is a member of such “group” (without giving effect to any Voting Stock that may be deemed owned by such other Person pursuant to Rule 13d-3 or 13d-5 under the Exchange Act as a result of such “group”). Any person or group, together with its Affiliates, whose acquisition of beneficial ownership constitutes a Change of Control in respect of which a Change of Control Offer or Alternate Offer is made or waived in accordance with the requirements of this Indenture will thereafter, together with its Affiliates, constitute an additional Permitted Holder.

“Permitted Investments” means:

- (1) any Investment in the Issuer or in a Restricted Subsidiary of the Issuer (including in the Unsecured Notes);
- (2) any Investment in cash, Cash Equivalents or Investment Grade Securities;
- (3) any Investment by the Issuer or any Restricted Subsidiary of the Issuer in a Person, if as a result of such Investment:
 - (a) such Person becomes a Restricted Subsidiary of the Issuer; or
 - (b) such Person, in one transaction or a series of related transactions, is merged or consolidated 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 in compliance with Section 4.10 hereof;
- (5) any acquisition of assets or Capital Stock solely in exchange for, or out of the proceeds of, the issuance of Equity Interests (other than Disqualified Stock) of the Issuer or of any direct or indirect parent 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 of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; (B) litigation, arbitration or other disputes; or (C) as a result of a foreclosure by the Issuer or any of its Restricted Subsidiaries with respect to a secured Investment or other transfer of title with respect to any secured Investment in default;
- (7) Investments represented by Hedging Obligations;

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(8) loans or advances to employees made in the ordinary course of business of the Issuer or any Subsidiary of the Issuer in an aggregate principal amount not to exceed the greater of (x) \$25.0 million and (y) 8.0% of Consolidated EBITDA at any one time outstanding;

(9) repurchases of the Unsecured Notes and the Secured Notes;

(10) any guarantee of Indebtedness permitted to be incurred under Section 4.09 hereof;

(11) any Investment existing on, or made pursuant to binding commitments existing on the Acquisition Date and any Investment consisting of an extension, modification, renewal, replacement, refunding or refinancing of any investment existing on, or made pursuant to a binding commitment existing on the Acquisition Date; *provided* that the amount of any such Investment may be increased (a) as required by the terms of such Investment as in existence on the Acquisition Date or (b) as otherwise permitted under this Indenture;

(12) Investments acquired after the Acquisition Date as a result of the acquisition by the Issuer or any Restricted Subsidiary of the Issuer of another Person, including by way of a merger, amalgamation, Division or consolidation with or into the Issuer or any of its Restricted Subsidiaries in a transaction that is not prohibited by Section 5.01 hereof after the Acquisition Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation, Division or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(13) Investments by the Issuer or its Restricted Subsidiaries consisting of deposits, prepayment and other credits to suppliers or landlords made in the ordinary course of business;

(14) guaranties made in the ordinary course of business of (a) obligations owed to landlords, suppliers, customers, franchisees and licensees of the Issuer or its Subsidiaries and (b) operating leases (for the avoidance of doubt, excluding Capital Lease Obligations) or of other obligations that do not constitute Indebtedness;

(15) any Investment acquired by the Issuer or any of its Restricted Subsidiaries (a) in exchange for any other Investment or accounts receivable held by the Issuer or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the Issuer of such other Investment or accounts receivable, or (b) as a result of a foreclosure by the Issuer or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(16) loans and advances to officers, directors and employees for business-related travel expenses, moving and relocation expenses and other similar expenses, in each case incurred in the ordinary course of business;

(17) Investments consisting of the licensing, sublicensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons;

(18) Investments in joint ventures of the Issuer or any of its Restricted Subsidiaries in an aggregate amount, taken together with all other Investments made pursuant to this clause (18) that are at the time outstanding, not to exceed the greater of (x) \$50.0 million and (y) 15.0% of Consolidated EBITDA, at any one time outstanding;

(19) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses of intellectual property or leases, in each case, in the ordinary course of business;

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(20) [reserved];

(21) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with Section 4.11(b) hereof (except transactions described in clauses (3), (6), (10), (11), (13) and (19) of Section 4.11(b) hereof);

(22) any acquisition of assets or Capital Stock solely in exchange for, or out of the net cash proceeds received from, the issuance of Equity Interests (other than Disqualified Stock) of the Issuer or any contribution to the common equity of the Issuer; *provided* that the amount of any such net cash proceeds that are utilized for any such Investment pursuant to this clause (22) will be excluded from Section 4.07(a)(z)(B);

(23) other Investments in any Person (other than an Investment in an Unrestricted Subsidiary) having an aggregate Fair Market Value, when taken together with all other Investments made pursuant to this clause (23) that are at the time outstanding not to exceed the greater of (x) \$50.0 million and (y) 15.0% of Consolidated EBITDA, at any one time outstanding; *provided, however*, that if any Investment pursuant to this clause (23) is made in any Person that is not a Restricted Subsidiary of the Issuer at the date of the making of such Investment and such Person becomes a Restricted Subsidiary of the Issuer after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (23) for so long as such Person continues to be a Restricted Subsidiary of the Issuer;

(24) [reserved]; and

(25) Investments in Unrestricted Subsidiaries having an aggregate Fair Market Value, when taken together with all other Investments made pursuant to this clause (25) that are at that time outstanding not to exceed the greater of (x) \$25.0 million and (y) 7.5% of Consolidated EBITDA, at any one time outstanding, so long as on the date of any such Investment, no Event of Default has occurred and is continuing or would result therefrom; *provided* that in no event shall any material portion of the intellectual property of the Issuer and its Restricted Subsidiaries be transferred to any Unrestricted Subsidiary pursuant to this clause (25).

For purposes of this definition, (i) the aggregate amount of Investments by the Issuer and the Guarantors in Non-Guarantor Subsidiaries pursuant to clauses (3) and (12) above shall not, when taken together, exceed the greater of (x) \$25.0 million and (y) 7.5% of Consolidated EBITDA at any one time outstanding and (ii) in the event that a proposed Investment (or portion thereof) meets the criteria of more than one of the categories of Permitted Investments described in clauses (1) through (25) above, or is otherwise entitled to be incurred or made pursuant to Section 4.07, the Issuer will be entitled to classify such Investment (or portion thereof) in one or more of such categories set forth above or pursuant to Section 4.07.

“*Permitted Liens*” means:

(1) Liens on assets of the Issuer or any of its Restricted Subsidiaries securing Indebtedness and other Obligations that were incurred pursuant to clause (1), (8), (15) or (22) of Section 4.09(b) hereof;

(2) Liens in favor of the Issuer or Guarantors, if any;

(3) Liens on assets, property or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary of the Issuer or is merged or amalgamated with or into or consolidated with the Issuer or a Restricted Subsidiary of the Issuer; *provided* that such Liens (a) were in existence prior to the contemplation of such Person becoming a Restricted Subsidiary of the Issuer or such merger or consolidation and (b) do not extend to any assets other than those of the Person that becomes a Restricted Subsidiary of the Issuer or the surviving entity of any such merger, amalgamation or consolidation;

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(4) Liens on assets or on property (including Capital Stock) existing at the time of acquisition of the assets or property by the Issuer or any Subsidiary of the Issuer; *provided* that such Liens (a) were in existence prior to such acquisition and not incurred in contemplation of, such acquisition and (b) do not extend to any other assets of the Issuer or any of its Subsidiaries;

(5) Liens, pledges or deposits to secure the performance of bids, trade contracts, leases, statutory obligations, insurance, judgments, surety or appeal bonds, workers' compensation obligations, performance bonds, unemployment insurance obligations, social security obligations, or other obligations of a like nature incurred in the ordinary course of business (including Liens to secure letters of credit issued to assure payment of such obligations);

(6) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by Section 4.09(b)(4) hereof covering only the assets acquired with or financed by such Indebtedness; provided that individual financings of property or equipment provided by one lender may be cross collateralized to other financings of property or equipment provided by such lender;

(7) (a) Liens existing on the Acquisition Date (other than with respect to the New ABL Credit Agreement) and (b) Liens securing the Secured Notes issued on the Issue Date and the Secured Note Guarantees;

(8) Liens for taxes, assessments or governmental charges or claims that are not yet due and payable or that are being contested in good faith by appropriate proceedings; *provided* that any reserve or other appropriate provision as is required in conformity with GAAP (or in conformity with generally accepted accounting principles in the jurisdiction in which the Issuer or Restricted Subsidiary is organized) has been made therefor;

(9) Liens imposed by law, such as carriers', warehousemen's, materialmen's, landlord's, workmen's, repairer's and mechanics' Liens, in each case, incurred in the ordinary course of business;

(10) survey exceptions, 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 property that were not incurred in connection with Indebtedness and that 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;

(11) Liens created for the benefit of (or to secure) the Unsecured Notes and Unsecured Note Guarantees and additional *pari passu* Indebtedness and related Guarantees permitted to be incurred under this Indenture;

(12) Liens to secure any 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 Lien (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 (x) the outstanding principal amount (or accreted amount, if applicable, or, if greater, committed amount) of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged with such Refinancing Indebtedness and (y) an amount necessary to pay any fees and expenses, including premiums, related to such renewal,

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refunding, refinancing, replacement, defeasance or discharge;

(13) Liens on insurance policies and proceeds thereof, or other deposits, to secure insurance premium financings;

(14) Liens arising from, or from the filing of UCC financing statements in connection with, operating leases;

(15) bankers' Liens, rights of set-off, Liens arising out of judgments or awards not constituting an Event of Default and notices of *lis pendens* and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made to the extent required by GAAP (or in conformity with generally accepted accounting principles in the jurisdiction in which such Issuer or Restricted Subsidiary is organized);

(16) Liens on Cash Equivalents or other property arising in connection with the defeasance, discharge or redemption of Indebtedness;

(17) Liens on specific items of inventory or other goods and the proceeds thereof (including documents, instruments, accounts, chattel paper, letter of credit rights, general intangibles, supporting obligations, and claims under insurance policies relating thereto) of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created in the ordinary course of business 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 (including licenses or sublicenses of software and other technology or intellectual property) granted to other Persons not materially interfering with the conduct of the business of the Issuer or any of its Restricted Subsidiaries, when taken as a whole;

(19) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;

(20) statutory, common law or contractual Liens of creditor depository institutions or institutions holding securities accounts (including the right of set-off or similar rights and remedies);

(21) customary Liens granted in favor of a trustee (including the Trustee) to secure fees and other amounts owing to such trustee under an indenture or other agreement pursuant to which Indebtedness not prohibited by this Indenture is issued (including the Unsecured Notes Indenture under which the Unsecured Notes are to be issued and each Secured Notes Indenture under which the Secured Notes are to be issued);

(22) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties in connection with the importation of goods;

(23) (a) Liens on assets or the Capital Stock of Non-Guarantor Subsidiaries securing Indebtedness of Non-Guarantor Subsidiaries permitted to be incurred in accordance with Section 4.09 hereof and (b) Liens on the Capital Stock of Unrestricted Subsidiaries;

(24) Liens securing Hedging Obligations entered into in the ordinary course of business and not for speculative purposes; *provided* that such Hedging Obligations are permitted to be incurred under this Indenture;

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(25) Liens on assets pursuant to merger agreements, stock or asset purchase agreements and similar agreements in respect of the disposition of such assets otherwise permitted under this Indenture for so long as such agreements are in effect;

(26) other Liens with respect to obligations that do not exceed the greater of (x) \$25.0 million and (y) 7.5% of Consolidated EBITDA at any one time outstanding;

(27) Liens securing Indebtedness or other Obligations of the Issuer or a Restricted Subsidiary of the Issuer owing to the Issuer or another Restricted Subsidiary of the Issuer permitted to be incurred in accordance with Section 4.09 hereof;

(28) leases and subleases of real property that do not materially interfere with the ordinary conduct of the business of the Issuer or any of its Restricted Subsidiaries;

(29) [reserved];

(30) deposits made in the ordinary course of business to secure liability to insurance carriers or under self-insurance arrangements in respect of such obligations;

(31) Liens incurred to secure any Cash Management Services and Treasury Management Arrangement incurred in the ordinary course of business;

(32) Liens solely on any cash earnest money deposits made by the Issuer or any Restricted Subsidiary of the Issuer in connection with any letter of intent or purchase agreement permitted under this Indenture;

(33) any encumbrances or restrictions (including, without limitation, put and call agreements) with respect to the Capital Stock of any joint venture pursuant to the agreement evidencing such joint venture;

(34) Liens that may arise on inventory or equipment in the ordinary course of business as a result of such inventory or equipment being located on premises owned by Persons other than the Issuer or its Restricted Subsidiaries;

(35) other ordinary course Liens or Liens consistent with past practice, in each case, incidental to the conduct of the Issuer's and its Restricted Subsidiaries' businesses or the ownership of its property not securing any Indebtedness of the Issuer or a Restricted Subsidiary of the Issuer, and which do not in the aggregate materially detract from the value of the Issuer's and its Restricted Subsidiaries' property when taken as a whole, or materially impair the use thereof in the operation of its business;

(36) Liens on cash proceeds of Indebtedness (and on the related escrow accounts) in connection with the issuance of such Indebtedness into (and pending the release from) a customary escrow arrangement, to the extent such Indebtedness is incurred in compliance with Section 4.09 hereof;

(37) any netting or set-off arrangement entered into by any Guarantor in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of the Guarantors;

(38) any payment or close out netting or set-off arrangement pursuant to any derivative transaction or foreign exchange transaction entered into by a Guarantor; and

(39) any Lien in favor of Lloyds Bank plc (formerly known as Lloyds TSB Bank plc) securing cash collateral provided by any Guarantor in relation to any Permitted Debt incurred under Section 4.09(b)(2).

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For purposes of determining compliance with this definition, (x) Permitted Liens need not be incurred solely by reference to one category of Permitted Liens described above but are permitted to be incurred in part under any combination thereof, (y) in the event that a Lien (or any portion thereof) meets the criteria of one or more categories of Permitted Liens described above, the Issuer shall, in its sole discretion, classify (or later reclassify) such item of Permitted Liens (or any portion thereof) in any manner that complies with this definition and (z) in the event that a portion of Indebtedness secured by a Lien that is incurred after the Acquisition Date could be classified as secured in part pursuant to clause (1) above (giving effect to the incurrence of such portion of such Indebtedness), the Issuer, in its sole discretion, may classify such portion of such Indebtedness (and any Obligations in respect thereof) as having been secured pursuant to clause (1) above and thereafter the remainder of the Indebtedness as having been secured pursuant to one or more of the other clauses of this definition; *provided, however*, that Indebtedness under the New ABL Credit Agreement shall be deemed secured under clause (1) of the definition of “Permitted Liens” above and thereafter may not be reclassified.

“*Permitted Parent*” means any (a) direct or indirect parent of the Issuer formed not in connection with, or in contemplation of, a transaction that, assuming such parent was not so formed, after giving effect thereto would constitute a Change of Control, (b) any direct or indirect parent of the Issuer formed in connection with an underwritten public Equity Offering, (c) direct or indirect parent of the Issuer where the direct or indirect holders of the Voting Stock of such parent company immediately following the applicable transaction are substantially the same as the direct or indirect holders of the Voting Stock of the Issuer immediately prior to that transaction and (d) any Public Company (or Wholly Owned Subsidiary of such Public Company) unless and until such time as any Person or group (other than a Permitted Holder under clause (i), (ii), (iii) or (v) of the definition thereof) is deemed to be or become a beneficial owner of Voting Stock of such Public Company representing more than 50.0% of the total voting power of the Voting Stock of such Public Company; *provided that*, in the case of this clause (d), after giving effect to such transaction or series of transactions taken in connection with or reasonably incidental to such Public Company becoming a Permitted Parent of the Issuer (including, without limitation, the incurrence of any Indebtedness and the use of proceeds thereof), the Consolidated Total Debt Ratio for the Issuer and its Restricted Subsidiaries calculated immediately following such Public Company becoming a Permitted Parent of the Issuer and the consummation of such transaction or series of transactions would be equal to or less than 1.00x less than the Consolidated Total Debt Ratio of the Issuer and its Restricted Subsidiaries calculated immediately prior to such transaction or series of transactions on a *Pro Forma Basis*.

“*Permitted Payments to Parent*” means the declaration and payment of dividends or other payments to, or the making of loans to, any direct or indirect parent of the Issuer in amounts required for any direct or indirect parent of the Issuer (and, in the case of clause (3) below, its direct or indirect members), to pay, in each case without duplication:

- (1) general corporate operating and overhead costs and expenses (including, without limitation, expenses related to reporting obligations and any franchise and similar taxes, and other fees and expenses, required to maintain their corporate existence) of any direct or indirect parent of the Issuer to the extent such costs and expenses are reasonably attributable to the ownership or operation of the Issuer and its Restricted Subsidiaries;
- (2) reasonable fees and expenses (other than to Affiliates of the Issuer) incurred in connection with any unsuccessful debt or equity offering or other financing transaction by such direct or indirect parent of the Issuer;
- (3) with respect to any taxable period ending after the Issue Date for which the Issuer and/or any of its Subsidiaries are members of a consolidated, combined or similar tax group for U.S. federal and/or applicable state, local or foreign income tax purposes of which a direct or indirect parent of the Issuer is the common parent or other applicable taxpayer for the group (a “*Tax Group*”), the portion of any U.S. federal, state, local, and/or foreign income and similar taxes (including any alternative minimum taxes) of such Tax Group that is attributable to the taxable income of the Issuer and/or its Restricted Subsidiaries and, to the extent of the amount actually received from its Unrestricted Subsidiaries for such

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purpose, in amounts required to pay any such taxes that are attributable to the taxable income of such Unrestricted Subsidiaries; *provided* that the aggregate amount of such payments with respect to such period (regardless of when paid) shall not exceed the aggregate amount of such taxes that the Issuer and its applicable Restricted Subsidiaries (and, subject to the limitation described above, any applicable Unrestricted Subsidiaries of the Issuer) would have been required to pay with respect to such period were such entities stand-alone corporate taxpayers or a stand-alone corporate Tax Group for all applicable periods ending after the Issue Date;

(4) fees, expenses and indemnities owed by the Issuer, any direct or indirect parent of the Issuer, as the case may be, or the Issuer's Restricted Subsidiaries to Affiliates, in each case, to the extent permitted by Section 4.11(b)(7) hereof;

(5) customary salary, bonus, severance, indemnification obligations and other benefits payable to officers and employees of such direct or indirect parent company of the Issuer to the extent such salaries, bonuses, severance, indemnification obligations and other benefits are attributable to the ownership or operation of the Issuer and its Restricted Subsidiaries;

(6) the payment of customary transaction fees and expenses payable in accordance with Section 4.11(b)(20); and

(7) fees and expenses incurred by the Issuer or any direct or indirect parent of the Issuer related to the performance of its obligations under this Indenture, each Secured Notes Indenture and similar obligations under any Credit Agreement.

"*Person*" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"*Principals*" means (1) the Sponsor and (2) one or more investment funds advised, managed or controlled by Sponsor and, in each case (whether individually or as a group), their Affiliates, but not initially, however, any portfolio company of any of the foregoing.

"*Private Placement Legend*" means the legend set forth in Section 2.06(g)(1) hereof to be placed on all Unsecured Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"*Pro Forma Basis*" means, with respect to the calculation of any test, financial ratio, basket or covenant under this Indenture, including the Consolidated Senior Secured Debt Ratio, the Consolidated Total Debt Ratio and the Fixed Charge Coverage Ratio and the calculation of Consolidated EBITDA, Consolidated Total Indebtedness and Total Assets, of any Person and its Restricted Subsidiaries, as of any date, that pro forma effect will be given to the Transactions, any acquisition, merger, amalgamation, consolidation, Investment, any issuance, incurrence, assumption or repayment or redemption of Indebtedness (including Indebtedness issued, incurred or assumed or repaid or redeemed as a result of, or to finance, any relevant transaction and for which any such test, financial ratio, basket or covenant is being calculated), any issuance or redemption of preferred stock or Disqualified Stock, all sales, transfers and other dispositions or discontinuance of any Subsidiary, line of business, division, segment or operating unit, any operational change or any designation of a Restricted Subsidiary to an Unrestricted Subsidiary or of an Unrestricted Subsidiary to a Restricted Subsidiary, in each case that have occurred during the four consecutive fiscal quarter period of such Person being used to calculate such test, financial ratio, basket or covenant (the "*Reference Period*"), or subsequent to the end of the Reference Period but prior to such date or prior to or simultaneously with the event for which a determination under this definition is made (including any such event occurring at a Person who became a Restricted Subsidiary of the subject Person or was merged or consolidated with or into the subject Person or any other Restricted Subsidiary of the subject Person after the commencement of the Reference Period), as if each such event occurred on the first day of the Reference Period.

For purposes of making any computation referred to above:

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- (1) 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 date for which a determination under this definition is made had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligations have a remaining term in excess of 12 months);
- (2) interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer, in his or her capacity as such and not in his or her personal capacity, of the Issuer or a direct or indirect parent company of the Issuer to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP;
- (3) interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, an eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate;
- (4) [reserved]; and
- (5) to the extent not already covered above, any such calculation may include adjustments calculated in accordance with Regulation S-X under the Securities Act.

Any pro forma calculation may include, without limitation, (1) adjustments calculated in accordance with Regulation S-X under the Securities Act and (2) adjustments, other than Specified Permitted Adjustments, calculated to give effect to any Pro Forma Cost Savings; *provided* that any such adjustments that consist of reductions in costs and other operating improvements or synergies (whether added pursuant to this definition, the definition of “Pro Forma Cost Savings” or otherwise added to Consolidated Net Income or Consolidated EBITDA) shall be calculated in accordance with, and satisfy the requirements specified in, the definition of “Pro Forma Cost Savings”.

“*Pro Forma Cost Savings*” means, without duplication of any amounts referenced in the definition of “Pro Forma Basis,” an amount equal to the amount of cost savings, operating expense reductions, operating improvements and acquisition synergies, in each case, projected by the Issuer in good faith to be realized (calculated on a *Pro Forma* Basis as though such items had been realized on the first day of such period) as a result of actions taken on or prior to, or to be taken by the Issuer (or any successor thereto) or any Restricted Subsidiary within 12 months of, the date of such pro forma calculation, net of the amount of actual benefits realized or expected to be realized during such period that are otherwise included in the calculation of Consolidated EBITDA from such action; *provided* that (a) such cost savings, expense reductions, operating improvements and synergies are reasonably identifiable (as determined in good faith by a responsible financial or accounting officer, in his or her capacity as such and not in his or her personal capacity, of the Issuer, any director or indirect parent of the Issuer or any Qualified Reporting Subsidiary (or any successor thereto), to the extent providing the report required by Section 4.03 hereof and are reasonably anticipated to be realized within 12 months after the date of such pro forma calculation or after the consummation of any change that is expected to result in such cost savings, operating expense reductions, operating improvements or synergies and (b) no cost savings, expense reductions, operating improvements and synergies shall be added pursuant to this definition to the extent duplicative of any expenses or charges otherwise added to Consolidated Net Income or Consolidated EBITDA, whether through a pro forma adjustment or otherwise, for such period; *provided, further*, that (i) except for adjustments for Public Company Costs, the aggregate amount added in respect of this definition of “Pro Forma Cost Savings,” when taken together with the Specified Permitted Adjustments shall not exceed with respect to any four quarter period, 20% of Consolidated EBITDA for such period (calculated after giving effect to any such adjustments and the Specified Permitted Adjustments and after giving effect to any adjustments relating to Public Company Costs, if applicable) (such limitation, the “*Cost Savings Cap*”) and (ii) the aggregate amount added in respect of the foregoing (or otherwise added to Consolidated Net Income or Consolidated EBITDA) shall no longer be permitted to be added back to the extent the cost savings, operating expense reductions, operating improvements and synergies have not

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been achieved within 12 months of the action or event giving rise to such cost savings, operating expense reductions, operating improvements and synergies.

“Public Company” means any Person with a class or series of Voting Stock that is traded on a stock exchange or in the over-the-counter market.

“Public Company Costs” means, as to any Person, costs relating to compliance with the provisions of the Securities Act and the Exchange Act, as applicable to companies with equity securities held by the public, costs associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes Oxley Act of 2002 and the rules and regulations promulgated in connection therewith, the rules of national securities exchange companies with listed equity, directors’ compensation, fees and expense reimbursement, costs relating to investor relations, shareholder meetings and reports to shareholders, directors’ and officers’ insurance and other executive costs, legal and other professional fees, and listing fees, in each case to the extent arising solely by virtue of listing of such Person’s equity securities on a national securities exchange.

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

“Qualifying Equity Interests” means Equity Interests of the Issuer other than Disqualified Stock.

“Ratings Agency” means (1) each of Moody’s and S&P and (2) if Moody’s or S&P ceases to rate the Unsecured Notes for reasons outside of the Issuer’s control, a “nationally recognized statistical rating organization” within the meaning of Section 3 under the Exchange Act selected by the Issuer or any direct or indirect parent of the Issuer as a replacement agency for Moody’s or S&P, as the case may be.

“Refinancing” refers to the repayment in full, or the satisfaction and discharge in full of the obligations under any related indentures or notes, as applicable, of the Existing Pattonair Indebtedness and the Existing Wesco Aircraft Indebtedness and the termination of any security interests granted in connection therewith.

“Regulated Subsidiary” means any entity that is subject to United States or foreign federal, state or local regulation over its ability to incur Indebtedness or create Liens (including Liens with respect to its own Capital Stock).

“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 appropriate.

“Regulation S Permanent Global Note” means a permanent Global Note in the form of Exhibit A hereto bearing the Global Note Legend, 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 exchanged therefor upon and after 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, Private Placement Legend and Regulation S Temporary Global Legend 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 Unsecured Notes initially sold in reliance on Rule 903 of Regulation S.

“Regulation S Temporary Global Note Legend” means the legend set forth in Section 2.06(g)(3) hereof to be placed on all Regulation S Temporary Global Notes.

“Related Business Assets” means assets (other than cash or Cash Equivalents) used or useful in a Permitted Business and not classified as current assets under GAAP; *provided* that assets received by the Issuer or a Restricted Subsidiary in exchange for assets transferred by the Issuer or a Restricted Subsidiary will not qualify as Related

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Business Assets if they consist of securities of a Person, unless upon receipt of such securities such Person becomes a Restricted Subsidiary of the Issuer.

“Related Party” means (a) with respect to the Sponsor, (i) any investment fund controlled by or under common control with the Sponsor, any officer or director of the foregoing persons, or any entity controlled by any of the foregoing persons and (ii) any spouse or lineal descendant (including by adoption or stepchildren) of the officers and directors referred to in clause (a)(i); and (b) with respect to any officer of the Issuer or its Subsidiaries, (i) any spouse or lineal descendant (including by adoption and stepchildren) of such officer and (ii) any trust, corporation or partnership or other entity, in each case to the extent not an operating company, of which an 80% or more controlling interest is held by the beneficiaries, stockholders, partners or owners who are the officer, any of the persons described in clause (b)(i) above or any combination of these identified relationships.

“Reorganization” refers to the reorganization of Pattonair and its affiliates and Wolverine Top Holding Corporation, a wholly owned affiliate of Sponsor, and its subsidiaries, (Wolverine Top Holding Corporation will be a holding company controlled by funds affiliated with Sponsor and Initial Issuer’s, Merger Sub’s and Holdings’ parent entities will be transferred from an affiliate of Sponsor (*“Old Holdco”*) to Wolverine Top Holding Corporation, prior to the Acquisition) which includes but is not limited to (i) the contribution or transfer, in one or a series of transactions, on terms to be determined by the parties involved, of certain direct or indirect subsidiaries or affiliates of Pattonair to Wolverine Top Holding Corporation, (ii) certain restructuring steps to move shareholdings of certain senior managers of the Pattonair Group so as to be held at the level of Wolverine Top Holding Corporation, (iii) certain Pattonair Group entities being liquidated or dissolved or otherwise not becoming direct or indirect subsidiaries of Wolverine Top Holding Corporation, (iv) the Ultimate Issuer becoming the direct or indirect parent entity of the remaining Wesco and Pattonair Group entities after the completion of the Acquisition, (v) the organization of Wolverine Top Holding Corporation and its subsidiaries and related activities, including subscription of equity securities in such entities and transactions related thereto and (vi) the transfer by Old Holdco to Wolverine Top Holding Corporation of Wolverine Intermediate Holding Corporation and its subsidiaries, which will include Initial Issuer, Merger Sub and Holdings.

“Responsible Officer” means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, who shall have direct responsibility for the administration of this Indenture, and any other officer of the Trustee to whom any corporate trust matter relating to this Indenture is referred because of such officer’s knowledge of and familiarity with the particular subject.

“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, which period shall terminate on January 6, 2020.

“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.

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“S&P” means S&P Global Ratings.

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

“Secured Indebtedness” means any Indebtedness secured by a Lien other than Indebtedness with respect to Cash Management Services or a Treasury Management Arrangement.

“Secured Note Guarantee” means the Guarantee by each Guarantor of the Issuer’s obligations under the Secured Notes Indentures and the Secured Notes, executed pursuant to the provisions of the Secured Notes Indentures.

“Secured Notes” means, collectively, the 2024 Secured Notes and the 2026 Secured Notes.

“Secured Notes Indentures” means, collectively, the 2024 Secured Notes Indenture and the 2026 Secured Notes Indenture.

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

“Security Documents” means the applicable Intercreditor Agreements, each joinder or amendment to the applicable Intercreditor Agreements, the Notes Security Agreement, the U.K. Notes Security Agreement, all other security agreements, pledge agreements, control agreements, collateral assignments, mortgages, deeds of trust, security deeds, deeds to secure debt, deeds of trust, hypothecs, hypothecations, collateral agency agreements, debentures or other instruments or other pledges, grants or transfers for security or agreements related thereto executed and delivered by the Issuer or any Guarantor creating or perfecting (or purporting to create or perfect) a Lien upon collateral (including, without limitation, financing statements under the UCC) in favor of the Notes Collateral Agent on behalf of itself, the trustee and the holders of the Secured Notes to secure the Secured Notes and the Secured Note Guarantees, in each case, as amended, modified, renewed, restated, supplemented or replaced, in whole or in part, from time to time, in accordance with its terms and the Secured Notes Indentures subject to the terms of the Intercreditor Agreements.

“Significant Subsidiary” means any Restricted Subsidiary that would be a “significant subsidiary” as deemed in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of this Indenture.

“Specified Permitted Adjustments” means all adjustments of the type or nature identified in the calculations of “Adjusted EBITDA” and “Pro Forma Combined Adjusted EBITDA” as set forth in the “Summary—Summary Historical Consolidated Financial Information, Unaudited Pro Forma Condensed Combined Financial Information and Other Data” in the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to the Reference Period (it being understood that such adjustments shall be calculated net of the amount of actual benefits realized or expected to be realized during Reference Period that are otherwise included in the calculation of Consolidated EBITDA); *provided that*, for the avoidance of doubt, the Specified Permitted Adjustments shall be subject to the Cost Savings Cap.

“Sponsor” means Platinum Equity Advisors, LLC and its Affiliates (excluding any operating portfolio company thereof).

“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 original

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documentation governing such Indebtedness and will 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 which is by its terms expressly subordinated in right of payment to the Unsecured Notes, and (b) with respect to any Guarantor, any Indebtedness of such Guarantor which is by its terms expressly subordinated in right of payment to its Unsecured Note Guarantee.

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

(1) any corporation, association or other business entity (other than a partnership, joint venture, limited liability company or similar 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);

(2) any partnership, joint venture or limited liability company or similar entity of which (a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity; and

(3) any Person that is consolidated in the consolidated financial statements of the specified Person in accordance with GAAP.

“Taxes” means any present or future tax, levy, impost, assessment or other government charge (including penalties, interest, additions to tax and any other liabilities related thereto) imposed or levied by or on behalf of a Taxing Authority.

“Taxing Authority” means any government or any political subdivision or territory or possession of any government or any authority or agency therein or thereof having power to tax.

“Total Assets” means the total consolidated assets of the Issuer and its Restricted Subsidiaries as set forth on the most recent internally available consolidated balance sheet of the Issuer and its Restricted Subsidiaries.

“Transactions” means the Acquisition, including the payment of the consideration in connection therewith, the investment by the Principals and the other investors, the Equity Investment, the Reorganization, the Refinancing, the issuance of the Unsecured Notes and the Secured Notes, the execution of the Equity Commitment Letter, the execution of the Escrow Agreement, if applicable, and subsequent release of the Escrowed Funds therefrom, the execution of the Security Documents, the execution of, and borrowings on the Acquisition Date under, the New ABL Credit Agreement, in each case as in effect on the Acquisition Date, the pledge and security arrangements in connection with the foregoing and other actions in connection with the Transactions and, in each case, the payment of fees and expenses related thereto, including the transaction fee paid to the Sponsor in connection with the Acquisition and the other transactions described under the heading “Summary–The Transactions” in the Offering Memorandum.

“Treasury Management Arrangement” means any agreement or other arrangement governing the provision of treasury or cash management services, including deposit accounts, overdraft, credit or debit card, funds transfer, automated clearinghouse, zero balance accounts, returned check concentration, controlled disbursement, lockbox, account reconciliation and reporting and trade finance services and other cash management services.

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“*Treasury Rate*” means, as of any redemption date, the yield to maturity as of the earlier of (a) such redemption date or (b) the date on which the Unsecured Notes are defeased or satisfied and discharged, of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 that has become publicly available at least two Business Days prior to such date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to November 15, 2022; *provided, however*, that if the period from the redemption date to November 15, 2022 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.

“*Trust Indenture Act*” or “*TIA*” means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbb), as in effect on the Issue Date and, to the extent required by law, as amended.

“*Trustee*” means The Bank of New York Mellon Trust Company, N.A., until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

“*UCC*” means the Uniform Commercial Code (or any successor statute) as in effect from time to time in the relevant jurisdiction.

“*U.K. Guarantors*” means each of the following entities that are incorporated, formed or otherwise organized under the laws of England and Wales: (i) Adams Aviation Supply Company Limited, (ii) Mercurius Holdings Limited, (iii) Pattonair Holdings Limited, (iv) Quicksilver Midco Limited, (v) Pattonair Europe Limited, (vi) Pattonair (Derby) Limited, (vii) Pattonair Limited, (viii) Pattonair Properties Limited and (ix) Pattonair Group Limited, (x) Wesco 1 LLP, (xi) Wesco 2 LLP, (xii) Haas TCM Group of the UK Limited, (xiii) Wesco Aircraft International Holdings Limited, (xiv) Wesco Aircraft EMEA, Ltd., (xv) Haas Group International SCM Limited, (xvi) Flintbrook Limited and (xvii) Wesco Aircraft Europe Limited.

“*U.K. Notes Security Agreement*” means that certain [notes security agreement], dated as of the Acquisition Date, by and among the U.K. Guarantors and the Notes Collateral Agent, as may be amended, restated, supplemented or replaced, in whole or in part, from time to time.

“*Ultimate Issuer*” has the meaning assigned to such term in the introductory paragraph hereto.

“*Unrestricted Definitive Note*” means a Definitive Note that does not bear and is not required to bear the Private Placement Legend.

“*Unrestricted Subsidiary*” means any Subsidiary of the Issuer that is designated by the Board of Directors of the Issuer or any direct or indirect parent of the Issuer as an Unrestricted Subsidiary pursuant to a resolution of such Board of Directors, and any Subsidiary of an Unrestricted Subsidiary, but only to the extent that such Subsidiary:

- (1) has no Indebtedness other than Non-Recourse Debt;
- (2) is not party to any agreement, contract, arrangement or understanding with the Issuer or any Restricted Subsidiary of the Issuer (other than any Subsidiary of the Subsidiary to be so designated) unless the terms of any such agreement, contract, arrangement or understanding are not materially less favorable to the Issuer or such Restricted Subsidiary of the Issuer than those that might have been obtained at the time of any such agreement, contract, arrangement or understanding than those that could have been obtained from Persons who are not Affiliates of the Issuer;
- (3) is a Person with respect to which neither the Issuer nor any of its Restricted Subsidiaries (other than any Subsidiary of the Subsidiary to be so designated) 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

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(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Issuer or any of its Restricted Subsidiaries (other than any Subsidiary of the Subsidiary to be so designated).

Any designation by the Board of Directors of the Issuer or any direct or indirect parent of the Issuer shall be evidenced to the Trustee by filing with the Trustee a certified copy of the resolutions of such Board of Directors giving effect to such designation and an Officer's Certificate certifying that such designation complied with the foregoing conditions. No Unrestricted Subsidiary shall create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of the Issuer or any Restricted Subsidiary (other than Equity Interests in an Unrestricted Subsidiary).

"*Unsecured Note Guarantee*" means the Guarantee by each Guarantor of the Issuer's obligations under this Indenture and the Unsecured Notes, executed as provided in this Indenture.

"*Unsecured Notes*" has the meaning assigned to such term in the introductory paragraphs hereto.

"*Unsecured Notes Indenture*" means the indenture, dated as of the Issue Date, among the Issuer, the guarantors from time to time party thereto and The Bank of New York Mellon Trust Company, N.A., as trustee, as amended and supplemented from time to time, governing the Unsecured Notes.

"*U.S. Person*" means a U.S. Person as defined in Rule 902(k) promulgated 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 (without regard to the occurrence of any contingency) 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.

"*Wesco*" refers to Ultimate Issuer and its consolidated subsidiaries prior to the Acquisition and the Reorganization.

"*Wholly Owned Domestic Subsidiary*" means any Wholly Owned Subsidiary that is a Domestic Subsidiary.

"*Wholly Owned Restricted Subsidiary*" means any Wholly Owned Subsidiary that is a Restricted Subsidiary.

"*Wholly Owned Subsidiary*" means, with respect to any Person, a direct or indirect Subsidiary of such Person, 100% of the outstanding Capital Stock or other ownership interest of which (other than directors' qualifying shares or shares or interests required to be held by foreign nationals or other third parties to the extent required by applicable law) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

Section 1.02 *Other Definitions.*

<u>Term</u>	<u>Defined in Section</u>
"Acquisition Date"	14.03
"Additional Amount"	4.25
"Affiliate Transaction"	4.11
"Alternate Offer"	4.14
"Amortization Offer Period"	3.08
"Amortization Offer Purchase Date"	3.08
"Asset Sale Offer"	3.09
"Authentication Order"	2.02
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Section 1.03 *Rules of Construction.*

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) "or" is not exclusive;
- (4) the term "including" is not limiting;
- (5) words in the singular include the plural, and in the plural include the singular;
- (6) "will" shall be interpreted to express a command;
- (7) provisions apply to successive events and transactions; and
- (8) references to sections of or rules under the Exchange Act and the Securities Act will be deemed to include substitute, replacement or successor sections or rules adopted by the Commission from time to time.

Section 1.04 *Limited Condition Transactions; Measuring Compliance.*

(a) With respect to any (x) Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction and (y) repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock with respect to which a notice of repayment (or similar notice), which may be conditional, has been delivered, in each case for purposes of determining:

- (1) whether any Indebtedness (including Acquired Debt) that is being incurred or Disqualified Stock or preferred stock being issued in connection with such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing

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of Indebtedness, Disqualified Stock or preferred stock is permitted to be incurred in compliance with Section 4.09;

(2) whether any Lien being incurred in connection with such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock or to secure any such Indebtedness is permitted to be incurred in accordance with Section 4.12 or the definition of "Permitted Liens";

(3) whether any other transaction undertaken or proposed to be undertaken in connection with such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction, or repayment, repurchase or refinancing of Indebtedness; Disqualified Stock or preferred stock complies with the covenants or agreements contained in this Indenture or the Unsecured Notes;

(4) any calculation of the ratios, baskets or financial metrics, including Fixed Charge Coverage Ratio, Consolidated Total Debt Ratio, Consolidated Senior Secured Debt Ratio, Consolidated Net Income, Consolidated EBITDA, Consolidated Total Indebtedness, Total Assets and/or Pro Forma Cost Savings and, whether a Default or Event of Default exists in connection with the foregoing; and

(5) whether any condition precedent to the incurrence of Indebtedness (including Acquired Debt) or Liens, or issuance of Disqualified Stock or preferred stock, in each case that is being incurred in connection with such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock is satisfied,

at the option of the Issuer, any of its Restricted Subsidiaries, any direct or indirect parent of the Issuer, any successor entity of any of the foregoing or a third party (the "*Testing Party*"), the date of declaration of such Restricted Payment, the date that the definitive agreement for such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction is entered into, the date a public announcement of such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or the date of such notice, which may be conditional, of such repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock is given to the holders of such Indebtedness, Disqualified Stock or preferred stock (any such date, the "*Transaction Agreement Date*") may be used as the applicable date of determination, as the case may be, in each case with such pro forma adjustments as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of "Pro Forma Basis" or "Consolidated EBITDA."

(b) If the Testing Party elects to use the Transaction Agreement Date as the applicable date of determination in accordance with the foregoing, (a) any fluctuation or change in the Fixed Charge Coverage Ratio, Consolidated Total Debt Ratio, Consolidated Senior Secured Debt Ratio, Consolidated Net Income, Consolidated EBITDA, Consolidated Total Indebtedness, Total Assets and/or Pro Forma Cost Savings of the Issuer from the Transaction Agreement Date to the date of consummation of such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock will not be taken into account for purposes of determining whether any Indebtedness or Lien that is being incurred in connection with such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock or in connection with compliance by the Issuer or any of its Restricted Subsidiaries with any other provision of this Indenture or the Unsecured Notes or any other transaction undertaken in connection with such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock, is permitted to be incurred, (b) if financial statements for one or more subsequent fiscal quarters shall have become available, the Testing Party may elect, in its sole discretion, to re-determine all such baskets, ratios and financial metrics on the basis of such financial statements, in which case such date of redetermination shall thereafter be deemed to be the applicable Transaction Agreement Date for purposes of such baskets, ratios and financial metrics, (c) until such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or

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repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock is consummated or such definitive agreements are terminated, such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock and all transactions proposed to be undertaken in connection therewith (including the incurrence of Indebtedness, issuance of Disqualified Stock or preferred stock and Liens) will be given pro forma effect when determining compliance of other transactions (including the incurrence of Indebtedness, issuance of Disqualified Stock or preferred stock and Liens unrelated to such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock) that are consummated after the Transaction Agreement Date and on or prior to the date of consummation of such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock and any such transactions (including any incurrence of Indebtedness or issuance of Disqualified Stock or preferred stock and the use of proceeds thereof) will be deemed to have occurred on the Transaction Agreement Date and deemed to be outstanding thereafter for purposes of calculating any baskets, ratios or financial metrics under this Indenture after the Transaction Agreement Date and before the date of consummation of such Restricted Payment, Investment, acquisition, merger, amalgamation, Division or similar transaction or repayment, repurchase or refinancing of Indebtedness, Disqualified Stock or preferred stock and (d) Consolidated Interest Expense for purposes of the Fixed Charge Coverage Ratio will be calculated using an assumed interest rate based on the indicative interest margin (without giving effect to any step-ups) contained in any financing commitment documentation with respect to such Indebtedness, Disqualified Stock or preferred stock or, if no such indicative interest margin exists, as reasonably determined by Issuer in good faith. In addition, compliance with any requirement relating to the absence of a Default or Event of Default may be determined as of the Transaction Agreement Date (including any new Transaction Agreement Date) and not as of any later date as would otherwise be required under this Indenture.

Notwithstanding anything to the contrary herein, so long as an action was taken (or not taken) in reliance upon a basket, ratio of financial metric that was calculated or determined in good faith by a responsible financial or accounting officer of a Testing Party based upon financial information available to such officer at such time and such action (or inaction) was permitted hereunder at the time of such calculation or determination, any subsequent restatement, modification or adjustments made to such financial information (including any restatement, modification or adjustment that would have caused such basket or ratio to be exceeded as a result of such action or inaction) shall not result in any Default or Event of Default.

ARTICLE 2 THE NOTES

Section 2.01 *Form and Dating.*

(a) *General.* The Unsecured Notes and the Trustee's certificate of authentication will be substantially in the form of Exhibit A hereto. The Unsecured Notes may have notations, legends or endorsements required by law, stock exchange rule or usage; *provided* that any such notations, legends or endorsements are in a form reasonably acceptable to the Issuer. Each Unsecured Note will be dated the date of its authentication. Each Unsecured Note will bear interest at a rate of 13.125% *per annum* from the Issue Date or from the most recent date to which interest has been paid or provided for, payable semi-annually on May 15 and November 15 of each year (each such date, an "*Interest Payment Date*"), commencing with May 15, 2020, to holders of record as of the close of business on the May 1 or November 1, whether or not a Business Day, immediately preceding each Interest Payment Date. Interest will be paid on the basis of a 360-day year consisting of twelve 30-day months. The Unsecured Notes will be issued in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

The terms and provisions contained in the Unsecured Notes will 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

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provision of any Unsecured Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) *Global Notes.* Unsecured Notes issued in global form will be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Unsecured Notes issued in definitive form will be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Each Global Note will represent such of the outstanding Unsecured Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Unsecured Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Unsecured Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Unsecured Notes represented thereby will 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.* Unsecured Notes offered and sold in reliance on Regulation S will be issued initially in the form of the Regulation S Temporary Global Note, which will be deposited on behalf of the purchasers of the Unsecured 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. After the expiration of the Restricted Period and upon the receipt by the Trustee of:

(1) certificates from Euroclear and Clearstream, substantially in the form of Exhibit E hereto, 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 will take delivery of a beneficial ownership interest in a 144A Global Note or IAI Global Note bearing a Private Placement Legend, all as contemplated by Section 2.06(b) hereof); and

(2) an Officer’s Certificate from the Issuer, beneficial interests in the Regulation S Temporary Global Note will be exchanged for beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures. Simultaneously with such exchange of the Regulation S Permanent Global Note, the Trustee will 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 interests as hereinafter provided.

(d) *Euroclear and Clearstream Procedures Applicable.* The provisions of the “Operating Procedures of the Euroclear System” and “Terms and Conditions Governing Use of Euroclear” and the “General Terms and Conditions of Clearstream Banking” and “Customer Handbook” of Clearstream will be applicable to transfers of beneficial interests in the Regulation S Temporary Global Note and the Regulation S Permanent Global Note that are held by Participants through Euroclear or Clearstream.

(e) *Issuance of Additional Unsecured Notes.* Additional Unsecured Notes ranking *pari passu* with the Initial Unsecured Notes may be 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 Unsecured Notes (other than the issue date, the issue price, the first Interest Payment Date and the initial interest accrual date) and shall have the same terms as to status, redemption or otherwise as the Initial Unsecured Notes; *provided* that in order for any Additional Unsecured Notes to have the same CUSIP number as the Initial Unsecured Notes, such Additional Unsecured Notes must be fungible with the Initial Unsecured Notes for U.S. federal income tax purposes; *provided, further*, that the Issuer’s

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ability to issue Additional Unsecured Notes shall be subject to the Issuer's compliance with Sections 4.09 and 4.12 hereof.

Section 2.02 *Execution and Authentication.*

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

If an Officer whose signature is on an Unsecured Note no longer holds that office at the time an Unsecured Note is authenticated, the Unsecured Note will nevertheless be valid.

An Unsecured Note will not be valid until authenticated by the manual signature of an authorized signatory of the Trustee. The signature will be conclusive evidence that the Unsecured Note has been duly authenticated and delivered under this Indenture.

The Trustee will, upon receipt of a written order of the Issuer signed by an Officer of the Issuer (an "Authentication Order"), together with the other documents required under Sections 13.02 and 13.03 hereof, if any, authenticate (i) Unsecured Notes for original issue, of which \$525,000,000 in aggregate principal amount will be issued on the Issue Date and (ii) any Additional Unsecured Notes. The aggregate principal amount of Unsecured Notes outstanding at any time may not exceed the aggregate principal amount of Unsecured Notes authorized for issuance by the Issuer pursuant to one or more Authentication Orders, except as provided in Section 2.07 hereof.

The Trustee may appoint an authenticating agent acceptable to the Issuer to authenticate Unsecured Notes. An authenticating agent may authenticate Unsecured 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 will maintain an office or agency where Unsecured Notes may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where Unsecured Notes may be presented for payment ("Paying Agent"). The Registrar will keep a register of the Unsecured Notes and of their transfer and exchange. 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 notice to any Holder. The Issuer will 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 Depositary with respect to the Global Notes.

The Issuer initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes.

Section 2.04 *Paying Agent to Hold Money in Trust.*

The Issuer will require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal of, premium on, if any, and interest on, the Unsecured 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) will have no further liability for the money. If the Issuer or a Subsidiary acts as Paying Agent, it will segregate and

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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 will serve as Paying Agent for the Unsecured Notes.

Section 2.05 *Holder Lists.*

The Trustee will 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 will furnish to the Trustee at least seven 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 Unsecured Notes.

Section 2.06 *Transfer and Exchange.*

(a) *Transfer and Exchange of Global Notes.* A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes will be exchanged by the Issuer for Definitive Notes if:

(1) the Issuer delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Issuer within 120 days after the date of such notice from the Depositary;

(2) the Issuer in its sole discretion determines, subject to the procedures of the Depositary, 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 Trustee of the certificates required pursuant to Section 2.01(c) hereof; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the Unsecured Notes and the Beneficial Owners thereof have requested such exchange.

Upon the occurrence of either of the preceding events in (1) or (2) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Unsecured 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 Unsecured Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c), (d) or (f) hereof.

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. None of the Issuer, Trustee, Paying Agent, nor any Agent of the Issuer shall have any responsibility or liability for any aspect of the records relating to or payment made on account of beneficial ownership interests in a Global Note, or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Beneficial interests in the Restricted Global Notes will 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 will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *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

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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). 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)(1).

(2) *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)(1) above, the transferor of such beneficial interest must deliver to the Registrar either:

[LISTNUM \l 5] both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

[LISTNUM \l 5] both:

(i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(ii) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (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 Trustee of the certificates required by Section 2.01(e) hereof.

(3) *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)(2) above and the Registrar receives the following:

[LISTNUM \l 5] 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,

[LISTNUM \l 5] if the transferee will take delivery in the form of a beneficial interest in the Regulation S Temporary Global Note or the Regulation S Permanent Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof, or

[LISTNUM \l 5] if the transferee will take delivery in the form of a beneficial interest in the IAI Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (3) thereof, if applicable.

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(c) *Transfer or Exchange of Beneficial Interests for Definitive Notes.*

[LISTNUM \14] *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 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 (1)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in 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 to the effect set forth in 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 to the effect set forth in 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 Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof;

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof, or

(G) if such beneficial interest is being transferred to an Institutional Accredited Investor, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(d) 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 deliver to the Person designated in the instructions a Definitive Note in the appropriate 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 Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Unsecured 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)(1) shall bear the Private Placement Legend and the Regulation S Temporary Global Note Legend, as applicable, and shall be subject to all restrictions on transfer contained therein.

[LISTNUM \14] *Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes.* Notwithstanding Sections 2.06(c)(1)(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 Trustee of the certificates required pursuant to Section 2.01(c) hereof, 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.

[LISTNUM \14] *Beneficial Interest in Restricted Global Notes to Unrestricted Definitive Notes.* A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an

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Unrestricted Definitive Note only if the Registrar receives the following: (i) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof, or (ii) if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof; and, in each case, if the Issuer so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Issuer to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests.*

[LISTNUM \l 4] *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 Notes 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 Unsecured Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in 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 to the effect set forth in 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 to the effect set forth in 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 Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof;

(F) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(e) thereof; or

(G) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(d) thereof;

the Trustee will cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, in the case of clause (C) above, the Regulation S Global Note and in the case of clause (G) above, the IAI 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 will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting

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Holder must 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 must provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(1) *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:

[LISTNUM \l 5] 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;

[LISTNUM \l 5] 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;

[LISTNUM \l 5] 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, certificates and Opinion of Counsel required by item (3) thereof, if applicable; and

[LISTNUM \l 5] If the transfer will be made to an Institutional Accredited Investor, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(d) thereof;

(2) *Restricted Definitive Notes to Unrestricted Definitive Notes.* Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if (i) the Holder of such Restricted Definitive Note proposes to exchange such Unsecured Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or (ii) the Holder of such Restricted Definitive Notes proposes to transfer such Unsecured Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof, and in each case, if the Issuer so requests, an Opinion of Counsel in form reasonably acceptable to the Issuer to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) *Unrestricted Definitive Notes to Unrestricted Definitive Notes.* A Holder of Unrestricted Definitive Notes may transfer such Unsecured Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) [Reserved].

(g) *Legends.* The following legends will 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.

(1) *Private Placement Legend.* Each Global Note and each Definitive Note (and all Unsecured Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

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“THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS [IN THE CASE OF RULE 144A NOTES: ONE YEAR AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF, THE ORIGINAL ISSUE DATE OF THE ISSUANCE OF ANY ADDITIONAL NOTES AND THE LAST DATE ON WHICH THE ISSUER OR ANY AFFILIATE OF THE ISSUER WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY),] [IN THE CASE OF REGULATION S NOTES: 40 DAYS AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE DATE ON WHICH THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY) WAS FIRST OFFERED TO PERSONS OTHER THAN DISTRIBUTORS (AS DEFINED IN RULE 902 OF REGULATION S) IN RELIANCE ON REGULATION S], ONLY (A) TO THE ISSUER OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT (“RULE 144A”), TO A PERSON IT REASONABLY BELIEVES IS A “QUALIFIED INSTITUTIONAL BUYER” AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT, (E) TO AN INSTITUTIONAL “ACCREDITED INVESTOR” WITHIN THE MEANING OF RULE 501(a)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT THAT IS AN INSTITUTIONAL ACCREDITED INVESTOR ACQUIRING THE SECURITY FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF SUCH AN INSTITUTIONAL ACCREDITED INVESTOR, IN EACH CASE IN A MINIMUM PRINCIPAL AMOUNT OF THE SECURITIES OF \$250,000, FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO OR FOR OFFER OR SALE IN CONNECTION WITH ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, OR (F) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUER’S AND THE TRUSTEE’S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (E) or (F) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/ OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE. [IN THE CASE OF REGULATION S NOTES: BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT.]”

“BY ITS ACQUISITION OF THIS SECURITY, THE HOLDER THEREOF WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT (A) EITHER (1) THE HOLDER IS NOT ACQUIRING OR HOLDING THIS SECURITY FOR OR ON BEHALF OF, AND NO PORTION OF THE ASSETS USED BY SUCH HOLDER TO ACQUIRE OR HOLD THIS SECURITY CONSTITUTES THE ASSETS OF AN EMPLOYEE BENEFIT PLAN THAT IS SUBJECT TO TITLE I OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), A PLAN, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER ARRANGEMENT THAT IS SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”) OR PROVISIONS UNDER ANY OTHER FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS OR REGULATIONS THAT ARE SIMILAR TO SUCH PROVISIONS OF ERISA OR THE CODE (COLLECTIVELY, “SIMILAR LAWS”), OR OF AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE “PLAN ASSETS” OF ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT, OR (2) THE ACQUISITION, HOLDING AND

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SUBSEQUENT DISPOSITION OF THIS SECURITY WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE OR A SIMILAR VIOLATION UNDER ANY APPLICABLE SIMILAR LAWS” AND (B) NONE OF THE ISSUER, ANY GUARANTORS OR THE INITIAL PURCHASERS OF THE SECURITIES OR ANY OF THEIR RESPECTIVE AFFILIATES IS ACTING, OR WILL ACT, AS A FIDUCIARY TO ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT WITH RESPECT TO THE DECISION TO PURCHASE OR HOLD THIS SECURITY OR IS UNDERTAKING TO PROVIDE IMPARTIAL INVESTMENT ADVICE OR GIVE ADVICE IN A FIDUCIARY CAPACITY WITH RESPECT TO THE DECISION TO PURCHASE OR HOLD THIS SECURITY.

(2) *Global Note Legend.* Each Global Note will bear a legend in substantially the following form:

“THIS GLOBAL NOTE IS HELD BY OR ON BEHALF OF 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 (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) 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 AGENTS 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.”

(3) *Regulation S Temporary Global Note Legend.* In addition to the Private Placement Legend, the Regulation S Temporary Global Note will bear a legend in substantially the following form:

“THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR DEFINITIVE NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN). NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS REGULATION S TEMPORARY GLOBAL NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON.”

(4) *OID Legend.* If the Unsecured Notes are issued with original issue discount, they will bear the following additional legend (“OID Legend”):

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“THIS NOTE HAS BEEN ISSUED WITH ORIGINAL ISSUE DISCOUNT WITHIN THE MEANING OF SECTION 1272 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. FOR INFORMATION REGARDING: (1) THE ISSUE PRICE AND ISSUE DATE OF THE NOTE, (2) THE AMOUNT OF ORIGINAL ISSUE DISCOUNT ON THE NOTE AND (3) THE YIELD TO MATURITY OF THE NOTE, HOLDERS SHOULD CONTACT: WESCO AIRCRAFT HOLDINGS, INC., 24911 AVENUE STANFORD, VALENCIA, CA 91355, ATTENTION: GENERAL COUNSEL.”

(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 will 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 will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or by the Custodian 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 will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Custodian at the direction of the Trustee to reflect such increase.

(i) *General Provisions Relating to Transfers and Exchanges.*

[LISTNUM \1 4]To permit registrations of transfers and exchanges, the Issuer will execute and the Trustee will 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.

[LISTNUM \1 4]No service charge will 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 2.10, 3.06, 3.09, 4.10, 4.14, 4.18 and 9.05 hereof).

[LISTNUM \1 4][Reserved].

[LISTNUM \1 4]All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will 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.

[LISTNUM \1 4]Neither the Registrar nor the Issuer will be required:

(A) to issue, to register the transfer of, or to exchange any Unsecured Notes during a period beginning at the opening of business 15 days before the day of any selection of Unsecured 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 Unsecured Note selected for redemption in whole or in part, except the unredeemed portion of any Unsecured Note being redeemed in part; or

(C) to register the transfer of or to exchange an Unsecured Note between a record date and the next succeeding Interest Payment Date.

[LISTNUM \1 4]Prior to due presentment for the registration of a transfer of any Unsecured Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Unsecured Note is registered as the absolute owner of such Unsecured Note for the purpose of receiving payment of principal of and (subject to

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the record date provisions of the Unsecured Notes) interest on such Unsecured Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

[LISTNUM \1 4]The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

[LISTNUM \1 4]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 or other electronic means.

[LISTNUM \1 4]None of the Issuer, the Trustee, or any Agent shall have any 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 Unsecured Note (including any transfers between or among Participants, Indirect Participants, members or Beneficial Owners 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.

[LISTNUM \1 4]Neither the Trustee nor any Agent shall have any responsibility for any actions taken or not taken by the Depository.

Section 2.07 *Replacement Notes.*

If any mutilated Unsecured Note is surrendered to the Trustee or the Issuer and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Unsecured Note, the Issuer will issue and the Trustee, upon receipt of an Authentication Order, will authenticate a replacement Unsecured 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 an Unsecured Note is replaced. The Issuer may charge for its expenses in replacing an Unsecured Note.

In case any such mutilated, destroyed, lost, or stolen Unsecured Note has become due and payable, the Issuer in its sole discretion may, instead of issuing a new Unsecured Note, pay such Unsecured Note.

Upon the issuance of any new Unsecured Note under this Section 2.07, the Issuer may require the payment of a sum sufficient to cover any tax, assessment, fee or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Unsecured Note issued pursuant to this Section 2.07 in exchange for any mutilated Unsecured Note or in lieu of any destroyed, lost, or stolen Unsecured Note will constitute an original additional contractual obligation of the Issuer, whether or not the mutilated, destroyed, lost, or stolen Unsecured Note shall be at any time enforceable by anyone, and will be entitled to all the benefits of this Indenture equally and proportionately with any and all other Unsecured Notes duly issued hereunder.

The provisions of this Section 2.07 are exclusive and will preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost, or stolen Unsecured Notes.

Section 2.08 *Outstanding Notes.*

The Unsecured Notes outstanding at any time are all the Unsecured Notes authenticated by the Trustee except for those canceled by it, those delivered to the Issuer 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

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2.08 as not outstanding. Except as set forth in Section 2.09 hereof, an Unsecured Note does not cease to be outstanding because the Issuer or an Affiliate of the Issuer holds the Unsecured Note.

If an Unsecured 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 Unsecured Note is held by a bona fide purchaser.

If the principal amount of any Unsecured 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 Unsecured Notes payable on that date, then on and after that date such Unsecured Notes will be deemed to be no longer outstanding and will cease to accrue interest.

None of the Issuer, the Trustee, or any Agent shall have any responsibility or obligation to any Beneficial Owner in a Global Note, a Participant, an Indirect Participant or other Person with respect to the accuracy of the records of the Depositary or its nominee or of any Participant or Indirect Participant, with respect to any ownership interest in the Unsecured Notes or with respect to the delivery to any a Participant, Indirect Participant, Beneficial Owner or other Person (other than the Depositary) of any notice (including any notice of redemption) or the payment of any amount, under or with respect to such Unsecured Note. All notices and communications to be given to the Holders and all payments to be made to Holders under the Unsecured Notes and this Indenture shall be given or made only to or upon the order of the registered holders (which shall be the Depositary or its nominee in the case of the Global Note). The rights of Beneficial Owners in the Global Note shall be exercised only through the Depositary subject to the Applicable Procedures. The Issuer, the Trustee, and each Agent shall be entitled to rely and shall be fully protected in relying upon information furnished by the Depositary with respect to its Participants, Indirect Participants and any Beneficial Owners. The Issuer, the Trustee, and each Agent shall be entitled to deal with the Depositary, and any nominee thereof, that is the registered holder of any Global Note for all purposes of this Indenture relating to such Global Note (including the payment of principal, premium, if any, and interest and additional amounts, if any, and the giving of instructions or directions by or to the owner or Holder of a beneficial ownership interest in such Global Note) as the sole holder of such Global Note and shall have no obligations to the Beneficial Owners thereof. None of the Issuer, the Trustee, or any Agent have any responsibility or liability for any acts or omissions of the Depositary with respect to such Global Note, for the records of any such depositary, including records in respect of beneficial ownership interests in respect of any such Global Note, for any transactions between the Depositary and any Participant, Indirect Participant or between or among the Depositary, any such Participant and Indirect Participant and/or any holder or owner of a beneficial interest in such Global Note, or for any transfers of beneficial interests in any such Global Note.

Notwithstanding the foregoing, with respect to any Global Note, nothing herein shall prevent the Issuer, the Trustee, or any agent of the Issuer or the Trustee from giving effect to any written certification, proxy or other authorization furnished by any Depositary (or its nominee), as a Holder, with respect to such Global Note or shall impair, as between such Depositary and owners of beneficial interests in such Global Note, the operation of customary practices governing the exercise of the rights of such Depositary (or its nominee) as Holder of such Global Note.

Section 2.09 *Treasury Notes.*

In determining whether the Holders of the required principal amount of Unsecured Notes have concurred in any direction, waiver or consent, Unsecured Notes owned by the Issuer or any Guarantor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer or any Guarantor, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Unsecured Notes that a Responsible Officer of the Trustee knows are so owned will be so disregarded. Upon request of the Trustee, the Issuer will identify any such Unsecured Notes known by the Issuer to be so owned in an Officer's Certificate delivered to the Trustee, upon which the Trustee shall be entitled to conclusively rely.

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Section 2.10 *Temporary Notes.*

Until certificates representing Unsecured Notes are ready for delivery, the Issuer may prepare and the Trustee, upon receipt of an Authentication Order, will authenticate temporary Unsecured Notes. Temporary Unsecured Notes will be substantially in the form of certificated Unsecured Notes but may have variations that the Issuer considers appropriate for temporary Unsecured Notes and as may be reasonably acceptable to the Trustee. Without unreasonable delay, the Issuer will prepare and the Trustee will authenticate Definitive Notes in exchange for temporary Unsecured Notes. Holders of temporary Unsecured Notes will be entitled to all of the benefits of this Indenture.

Section 2.11 *Cancellation.*

The Issuer at any time may deliver Unsecured Notes to the Trustee for cancellation. The Registrar and Paying Agent will forward to the Trustee for cancellation any Unsecured Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else will cancel all Unsecured Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and will dispose of cancelled Unsecured Notes in accordance with its customary procedures (subject to the record retention requirements of the Exchange Act). Upon the request of the Issuer, certification of the cancellation of all canceled Unsecured Notes will be delivered to the Issuer. The Issuer may not issue new Unsecured Notes to replace Unsecured 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 Unsecured Notes, the Issuer will 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 Unsecured Notes and in Section 4.01 hereof; *provided* that if the Issuer pays the defaulted interest prior to the date that is 30 days after the date of default in payment of interest, payment shall be to the recordholders of the Unsecured Notes as of the original record date. The Issuer will notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Unsecured Note and the date of the proposed payment. If such default in interest continues for 30 days, the Issuer will fix or cause to be fixed each such special record date and payment date; *provided* that no such special record date may be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Issuer (or, upon the written request of the Issuer, the Trustee in the name and at the expense of the Issuer) will mail or cause to be mailed (or with respect to Global Notes, to the extent permitted or required by applicable DTC procedures or regulations, send electronically) to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.13 *CUSIP Numbers.*

The Issuer in issuing the Unsecured Notes may use "CUSIP" or other similar numbers (if then generally in use) and, if so, the Trustee shall use "CUSIP" or other similar 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 Unsecured Notes or as contained in any notice of redemption and that reliance may be placed only on the other identification numbers printed on the Unsecured Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer will as promptly as practicable notify the Trustee in writing of any change in "CUSIP" or other similar numbers.

ARTICLE 3
REDEMPTION AND PREPAYMENT

Section 3.01 *Notices to Trustee.*

If the Issuer elects to redeem Unsecured Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it must furnish to the Trustee, at least two Business Days for Global Notes and 10 days for Definitive Notes (or such shorter period acceptable to the Trustee) before a notice of redemption is required to be mailed or sent to Holders pursuant to Section 3.03, an Officer's Certificate setting forth:

- (1) the clause of this Indenture pursuant to which the redemption shall occur;
- (2) the redemption date;
- (3) the principal amount of Unsecured Notes to be redeemed;
- (4) the redemption price, if then ascertainable;
- (5) if such redemption is conditioned, then one or more conditions precedent; and
- (6) if requested by the Issuer, that the Trustee give the notice of redemption in the Issuer's name and at its expense setting forth the information to be stated in such notice as provided in Section 3.03.

Section 3.02 *Selection of Notes to Be Redeemed or Purchased.*

If less than all of the Unsecured Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee (subject to Section 4.10 or 4.14, as applicable) will select Unsecured Notes for redemption or purchase pro rata, by lot or by such method as it shall deem fair and appropriate. If the Unsecured Notes are represented by Global Notes, interests in such Global Notes will be selected for redemption or purchase by DTC in accordance with its Applicable Procedures.

In the event of partial redemption or purchase, the particular Unsecured Notes to be redeemed or purchased will be selected, unless otherwise provided herein, not less than 10 nor more than 60 days prior to the redemption or purchase date (unless such notice of redemption is mailed or sent more than 60 days prior to a redemption or purchase date pursuant to clause (a) or (b) of Section 3.03) by the Trustee from the outstanding Unsecured Notes not previously called for redemption or purchase.

The Trustee will promptly notify the Issuer in writing of the Unsecured Notes selected for redemption or purchase and, in the case of any Unsecured Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Unsecured Notes and portions of Unsecured Notes selected will be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; except that if all of the Unsecured Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Unsecured Notes held by such Holder shall be redeemed or purchased; *provided*, that the unredeemed or unpurchased portion of an Unsecured Note must be in a minimum denomination of \$2,000. Except as provided in the preceding sentence, provisions of this Indenture that apply to Unsecured Notes called for redemption or purchase also apply to portions of Unsecured Notes called for redemption or purchase.

Section 3.03 *Notice of Redemption.*

Subject to the provisions of Section 3.09 hereof, at least 10 days but not more than 60 days before a redemption date, the Issuer will mail or cause to be mailed, by first class mail (or with respect to Global Notes, to the extent permitted or required by applicable DTC procedures or regulations, send electronically), a notice of redemption to each Holder whose Unsecured Notes are to be redeemed at its registered address, except that

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redemption notices may be mailed or sent more than 60 days prior to a redemption date if (a) the notice is issued in connection with a defeasance of the Unsecured Notes or a satisfaction and discharge of this Indenture pursuant to Articles 8 or 11 hereof or (b) in the case of a redemption that is subject to one or more conditions precedent, the date of redemption is extended as permitted in this Indenture.

The notice will identify the Unsecured Notes to be redeemed and will state:

- (1) the redemption date;
- (2) the redemption price, or if not then ascertainable, the manner of calculation thereof,
- (3) if any Unsecured Note is being redeemed in part, the portion of the principal amount of such Unsecured Note to be redeemed and that, after the redemption date upon surrender of such Unsecured Note, a new Unsecured Note or Unsecured Notes in principal amount equal to the unredeemed portion of the original Unsecured Note will be issued in the name of the Holder of the Unsecured Notes upon cancellation of the original Unsecured Note (or transferred by book entry);
- (4) the name and address of the Paying Agent;
- (5) that Unsecured Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (6) that, unless the Issuer defaults in making such redemption payment, interest on Unsecured Notes called for redemption ceases to accrue on and after the redemption date (whether or not a Business Day);
- (7) the paragraph of the Unsecured Notes and/or Section of this Indenture pursuant to which the Unsecured Notes called for redemption are being redeemed;
- (8) 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 Unsecured Notes; and
- (9) if the redemption is conditional, the one or more conditions precedent and that the Issuer may delay the redemption date in its discretion until such time as the condition or conditions are satisfied or waived by the Issuer in its sole discretion, or such redemption may not occur and such notice may be modified or rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Issuer in its sole discretion) by the redemption date, or by the redemption date so delayed (which may exceed 60 days from the date of the redemption notice in such case).

At the Issuer's request, the Trustee will give the notice of redemption in the Issuer's name and at the Issuer's expense subject to compliance with Section 3.01.

Section 3.04 *Effect of Notice of Redemption.*

Except as provided in Section 3.07(f) hereof, once notice of redemption is mailed or transmitted in accordance with Section 3.03 hereof, Unsecured Notes called for redemption become irrevocably due and payable on the redemption date (as such date may be extended or delayed) at the redemption price. The notice, if mailed or transmitted 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 by such other means as may be required hereby or any defect in the notice to the Holder of any Unsecured Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Unsecured Note. Subject to Section 3.05 hereof, on and after the redemption date, interest will cease to accrue on the Unsecured Notes or portion thereof called for redemption as of the redemption date (whether or not a Business Day).

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Section 3.05 *Deposit of Redemption or Purchase Price.*

Prior to 11:00 a.m. Eastern Time on the redemption or purchase date, the Issuer will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of, and accrued interest, if any, on all Unsecured Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly 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 or purchase price of, and accrued interest, if any, on all Unsecured 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 will cease to accrue on the Unsecured Notes or the portions of Unsecured Notes called for redemption or purchase. If any Unsecured Note called for redemption or purchase is not 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 not paid on such unpaid principal, in each case at the rate provided in the Unsecured Notes and in Section 4.01 hereof.

Section 3.06 *Notes Redeemed or Purchased in Part.*

Upon surrender of an Unsecured Note that is redeemed or purchased in part, the Issuer will issue, and upon receipt of an Authentication Order, together with the documents required in Sections 13.02 and 13.03 hereof, the Trustee will authenticate for the Holder at the expense of the Issuer, a new Unsecured Note equal in principal amount to the unredeemed or unpurchased portion of the Unsecured Note surrendered (or transfer such Unsecured Note by book entry).

Section 3.07 *Optional Redemption.*

(a) At any time prior to November 15, 2022, the Issuer may on any one or more occasions redeem up to 35% of the aggregate principal amount of Unsecured Notes (calculated after giving effect to the issuance of any Additional Unsecured Notes) issued under this Indenture at a redemption price equal to 113.125% of the principal amount of Unsecured Notes redeemed, *plus* accrued and unpaid interest, if any, on the Unsecured Notes redeemed, to (but not including) the date of redemption (subject to the right of Holders of Unsecured Notes on a relevant record date to receive interest on an Interest Payment Date occurring on or prior to the redemption date), with the cash proceeds of any Equity Offering; *provided that*:

(1) at least 65% of the aggregate principal amount of the Unsecured Notes (including any Additional Unsecured Notes) then outstanding remain outstanding immediately after the occurrence of each such redemption (except to the extent otherwise repurchased or redeemed in accordance with the terms of this Indenture); and

(2) the redemption occurs within 180 days of the date of the closing of such Equity Offering.

(b) At any time prior to November 15, 2022, the Issuer may on any one or more occasions redeem all or a portion of the Unsecured Notes at a redemption price equal to 100% of the principal amount of the Unsecured Notes redeemed, plus the Applicable Premium as of the date of the redemption notice, and accrued and unpaid interest, if any, on the Unsecured Notes redeemed, to (but not including) the date of redemption, subject to the rights of Holders of Unsecured Notes on a relevant record date to receive interest due on an Interest Payment Date occurring on or prior to the redemption date.

(c) At any time, in connection with any offer to purchase the Unsecured Notes (including pursuant to a Change of Control Offer, Alternate Offer or Asset Sale Offer), if Holders of at least 90% in aggregate principal amount of the Unsecured Notes outstanding tender such Unsecured Notes in such offer, the Issuer or such other Person, upon notice given not more than 60 days following such purchase pursuant to such offer, may redeem all of

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the remaining Unsecured Notes of such series at a price in cash equal to the price offered to each Holder in such prior offer, *plus*, to the extent not included in the prior offer payment, accrued and unpaid interest, if any, on the Unsecured Notes redeemed, to (but not including) the date of redemption, subject to the rights of Holders of Unsecured Notes on a relevant record date to receive interest due on an Interest Payment Date occurring on or prior to the redemption date. In determining whether the holders of at least 90% in aggregate principal amount of the outstanding Unsecured Notes have validly tendered and not validly withdrawn Unsecured Notes in an offer, Unsecured Notes owned by an Affiliate of the Issuer or by funds controlled or managed by any Affiliate of the Issuer, or any successor thereof, shall be deemed to be outstanding for the purposes of such offer.

(d) [reserved].

(e) Except pursuant to the preceding paragraphs, the Unsecured Notes will not be redeemable at the Issuer's option prior to November 15, 2022.

(f) On or after November 15, 2022, the Issuer may on any one or more occasions redeem all or a portion of the Unsecured Notes at the redemption prices (expressed as percentages of principal amount) set forth below, *plus* accrued and unpaid interest, if any, on the Unsecured Notes redeemed, to (but not including) the applicable date of redemption, if redeemed during the 12-month period beginning on November 15 of the years indicated below, subject to the rights of Holders of Unsecured Notes on a relevant record date to receive interest on an Interest Payment Date occurring on or prior to the redemption date:

Year	Percentage
2022	109.844%
2023	106.563%
2024	103.281%
2025 and thereafter	100.000%

(g) Any redemption of Unsecured Note of a series may, at the Issuer's discretion, be performed by another Person and be subject to one or more conditions precedent. In addition, if any redemption is subject to satisfaction of one or more conditions precedent, the related notice of redemption shall state that, in the Issuer's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied (or waived by the Issuer in its sole discretion), or such redemption may not occur and such notice may be modified or rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Issuer in its sole discretion) by the redemption date, or by the redemption date so delayed (which may exceed 60 days from the date of the redemption notice in such case). Such notice of redemption may be extended if such conditions precedent have not been met by providing notice to the Holders of the Unsecured Note. Unsecured Note called for redemption become due on the applicable redemption date (to the extent such redemption date occurs and as such date may be extended or delayed). Unless the Issuer defaults in the payment of the redemption price, interest will cease to accrue on the Unsecured Note or portions thereof called for redemption on the applicable redemption date (whether or not a Business Day).

(h) The Issuer or its Affiliates may at any time and from time to time purchase Unsecured Note. Any such purchases may be made through open market or privately negotiated transactions with third parties or pursuant to one or more tender or exchange offers or otherwise, upon such terms and at such prices as well as with such

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consideration as the Issuer or any such Affiliates may determine. To the extent Unsecured Note are purchased or otherwise acquired by the Issuer, such Unsecured Note may be cancelled and all obligations thereunder terminated.

Section 3.08 *Mandatory Redemption.*

Except in the case of a Special Mandatory Redemption, the Issuer will not be required to make mandatory redemption or sinking fund payments with respect to the Unsecured Notes.

Section 3.09 *Offer to Purchase by Application of Excess Proceeds.*

In the event that, pursuant to Section 4.10 hereof, the Issuer is required to commence an offer to all Holders to purchase Unsecured Notes (an "*Asset Sale Offer*"), it will follow the procedures specified below.

The Asset Sale Offer shall be made to all Holders and all holders¹ of Indebtedness of the Issuer or any Guarantor that ranks *pari passu* with the Unsecured Notes and contains provisions similar to those set forth in this Indenture with respect to offers to purchase, prepay or redeem with the proceeds of sales of assets. The Asset Sale Offer will remain open for a period of at least 20 Business Days following its commencement and not more than 30 Business Days, except to the extent that a longer period is required by applicable law (the "*Offer Period*"). Promptly after the termination of the Offer Period (the "*Offer Purchase Date*"), the Issuer will apply all Excess Proceeds (the "*Offer Amount*") to the purchase of Unsecured Notes and such other *pari passu* Indebtedness (to be purchased on a *pro rata* basis based on the principal amount of Unsecured Notes and such other *pari passu* Indebtedness tendered or required to be repaid or redeemed), and thereafter, the Unsecured Notes to be purchased shall be selected on a *pro rata* basis (subject to applicable DTC procedures with respect to the Global Notes) based on the principal amount tendered (with, in each case, such adjustments as may be deemed appropriate by the Issuer, so that only Unsecured Notes in denominations of \$2,000, or an integral multiple of \$1,000 in excess thereof, will be purchased, *provided* that any unpurchased portion of an Unsecured Note must be in a minimum denomination of \$2,000) or, if less than the Offer Amount has been tendered, all Unsecured Notes and other Indebtedness tendered in response to the Asset Sale Offer shall be purchased. Payment for any Unsecured Notes so purchased will be made in the same manner as principal and interest payments are made.

If the Offer Purchase Date is on or after an interest record date and on or before the related Interest Payment Date, any accrued and unpaid interest will be paid to the Person in whose name an Unsecured Note is registered at the close of business on such record date, and no additional interest will be payable to Holders who tender Unsecured Notes pursuant to the Asset Sale Offer.

Upon the commencement of an Asset Sale Offer, the Issuer will send, by first class mail (or with respect to Global Notes to the extent permitted or required by applicable DTC procedures or regulations, send electronically), a notice to the Trustee and each of the Holders, with a copy to the Trustee. The notice will contain all instructions and materials necessary to enable such Holders to tender Unsecured Notes pursuant to the Asset Sale Offer. The notice, which will govern the terms of the Asset Sale Offer, will state:

- (1) 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 will remain open;
- (2) the Offer Amount, the purchase price and the Offer Purchase Date;
- (3) that any Unsecured Note not tendered or accepted for payment will continue to accrue interest;

¹ NTD: This change should go in Secured Indentures too.

(4) that, unless the Issuer defaults in making such payment, any Unsecured Note accepted for payment pursuant to the Asset Sale Offer will cease to accrue interest after the Offer Purchase Date (whether or not a Business Day);

(5) that Holders electing to have an Unsecured Note purchased pursuant to an Asset Sale Offer may elect to have Unsecured Notes purchased in minimum denominations of \$2,000 or an integral multiple of \$1,000 in excess thereof; *provided* that any unpurchased portion of an Unsecured Note must be in a minimum denomination of \$2,000;

(6) that Holders electing to have Unsecured Notes purchased pursuant to any Asset Sale Offer will be required to surrender the Unsecured Note, with the form entitled "Option of Holder to Elect Purchase" attached to the Unsecured Notes completed, or transfer the Unsecured Note by book-entry transfer, to the Issuer, a Depositary, if appointed by the Issuer, or a Paying Agent at the address specified in the notice at least three Business Days before the Offer Purchase Date;

(7) that Holders will 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 telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Unsecured Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Unsecured Note purchased;

(8) that, if the aggregate principal amount of Unsecured Notes and other *pari passu* Indebtedness surrendered by holders thereof exceeds the Offer Amount, the Issuer will select the Unsecured Notes and other *pari passu* Indebtedness to be purchased on a *pro rata* basis based on the principal amount of Unsecured Notes and such other *pari passu* Indebtedness tendered or required to be prepaid or redeemed, and thereafter the Trustee will select the Unsecured Notes to be purchased on a *pro rata* basis (subject to applicable DTC procedures with respect to Global Notes) based on the principal amount tendered (with, in each case, such adjustments as may be deemed appropriate by the Issuer or the Trustee, as applicable, so that only Unsecured Notes in minimum denominations of \$2,000, or an integral multiple of \$1,000 in excess thereof, will be purchased; *provided* that any unpurchased portion of an Unsecured Note must be in a minimum denomination of \$2,000); and

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

On or before the Offer Purchase Date, the Issuer will, to the extent lawful, accept for payment (on a *pro rata* basis to the extent necessary), the Offer Amount of Unsecured Notes or portions thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Unsecured Notes tendered, and will deliver or cause to be delivered to the Trustee the Unsecured Notes properly accepted together with an Officer's Certificate stating that such Unsecured Notes or portions thereof were accepted for payment by the Issuer in accordance with the terms of this Section 3.09. The Issuer, the Depositary or the Paying Agent, as the case may be, will promptly mail or deliver to each tendering Holder an amount equal to the purchase price of the Unsecured Notes tendered by such Holder and accepted by the Issuer for purchase, and the Issuer will promptly issue a new Unsecured Note, and the Trustee, upon receipt of an Authentication Order, together with the documents required under Sections 13.02 and 13.03 hereof, will authenticate and mail or deliver (or cause to be transferred by book entry) such new Unsecured Note to such Holder, in a principal amount equal to any unpurchased portion of the Unsecured Note surrendered. Any Unsecured Note not so accepted shall be promptly mailed or delivered by the Issuer to the Holder thereof. The Issuer will publicly announce the results of the Asset Sale Offer on or as soon as practicable after the Offer Purchase Date.

Notwithstanding anything in this Indenture to the contrary, the Issuer's obligation to make an Asset Sale Offer may be waived or modified or terminated with written consent of the Holders of a majority in aggregate

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principal amount of the Unsecured Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Unsecured Notes) prior to the date by which the Issuer is required to make such Asset Sale Offer.

Section 3.10 *Redemption for Taxation Reasons*

(a) The Issuer may redeem the Unsecured Notes, in whole but not in part, at any time upon giving not less than 30 nor more than 60 days' prior notice to the holders, with a copy to the Trustee (which notice will be irrevocable and must be given in accordance with the procedures set forth in Section 3.03) at a redemption price equal to 100% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date fixed by the Issuer for redemption (a "*Tax Redemption Date*") and all Additional Amounts (if any) then due and which will become due on the Tax Redemption Date as a result of the redemption or otherwise (subject to the right of Holders as of the close of business on the relevant record date to receive interest due on the relevant Interest Payment Date and Additional Amounts (if any) in respect thereof), if on the next date on which any amount would be payable in respect of the Unsecured Notes, the Issuer or a U.K. Guarantor is or would be required to pay Additional Amounts (but, in the case of a U.K. Guarantor, only if the payment giving rise to such requirement cannot be made by the Issuer or another Guarantor that can make such payment without the obligation to pay Additional Amounts), and such obligation cannot be avoided by taking reasonable measures available to them (including the appointment of a new paying agent where this would be reasonable) (for which purpose, for the avoidance of doubt, none of the Issuer, any Guarantor will be required to take any measures that would result in the imposition on them of any material legal or regulatory burden or the incurrence by them of any material additional costs, or would otherwise result in any material adverse consequences), as a result of:

(1) any change in, or amendment to, the laws or treaties (or any regulations or rulings promulgated thereunder) of the relevant Tax Jurisdiction affecting taxation which change or amendment has not been publicly announced as formally proposed before and which becomes effective on or after the Issue Date (or, if the relevant Tax Jurisdiction has become a Tax Jurisdiction since the Issue Date, the date on which the Tax Jurisdiction became a Tax Jurisdiction under this Indenture); or

(2) any change in, or amendment to, the existing official position or the introduction of an official position regarding the application, administration or written interpretation of such laws, treaties, regulations or rulings (including a holding, judgment or order by a court of competent jurisdiction or a change in published practice of a government authority), which change, amendment or introduction has not been publicly announced as formally proposed before and becomes effective on or after the Issue Date (or, if the relevant Tax Jurisdiction has become a Tax Jurisdiction since the Issue Date, the date on which the Tax Jurisdiction became a Tax Jurisdiction under this Indenture) (each of the foregoing clauses (1) and (2) a "*Change in Tax Law*").

(b) The Issuer will not give any such notice of redemption (a) earlier than 60 days prior to the earliest date on which the Issuer would be obligated to make such payment or withholding if a payment in respect of the Unsecured Notes were then due and (b) unless at the time such notice is given, such obligation to pay such Additional Amounts remains in effect. Prior to the delivery of or, where relevant, mailing of any notice of redemption of Unsecured Notes pursuant to the foregoing, the Issuer will deliver to the Trustee (i) an opinion of counsel from a law firm of recognized national standing to the effect that there has been such Change in Tax Law that would entitle the Issuer to redeem the Unsecured Notes hereunder and that the Issuer and the relevant U.K. Guarantors cannot avoid any obligation to pay Additional Amounts by taking reasonable measures available to them and (ii) an Officer's Certificate stating that it is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to its right so to redeem have been satisfied and that the Issuer and the relevant U.K. Guarantors would not be able to avoid the obligation to pay Additional Amounts by taking reasonable measures available to them. The Trustee will be entitled to accept such opinion of counsel and Officer's Certificate as sufficient evidence of the satisfaction of the conditions precedent described above, without further inquiry, in which event it will be conclusive and binding on the holders.

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(c) The foregoing provisions will apply (a) only after such time as a U.K. Guarantor is obligated to make at least one payment on the Unsecured Notes and (b) *mutatis mutandis* to any successor of the Issuer or the relevant Guarantors, as applicable.

ARTICLE 4 COVENANTS

Section 4.01 *Payment of Unsecured Notes.*

The Issuer will pay or cause to be paid the principal of, premium on, if any, and interest, if any, on, the Unsecured Notes on the dates and in the manner provided in the Unsecured Notes. Principal, premium, if any, and interest, if any, will be considered paid on the date due if the Paying Agent, if other than the Issuer or a Subsidiary thereof, holds as of 11:00 a.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, if any, then due. Payments on the Unsecured Notes will be made free and clear of any deduction or withholding for taxes, except as otherwise required by law.

The Issuer will pay interest (including post-petition interest in any proceeding under any Bankruptcy Code) on overdue principal at a rate that is 1% higher than the then applicable interest rate on the Unsecured Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Code) on overdue installments of interest at the same stepped-up rate to the extent lawful.

Section 4.02 *Maintenance of Office or Agency.*

The Issuer will maintain in the contiguous United States, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Unsecured Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Issuer in respect of the Unsecured Notes and this Indenture may be served. The Issuer will 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 fails to maintain any such required office or agency or fails 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; *provided* that no service of legal process against the Issuer or any Guarantors may be made at any office of the Trustee.

The Issuer may also from time to time designate one or more other offices or agencies where the Unsecured Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission will in any manner relieve the Issuer of their obligation to maintain an office or agency in the contiguous United States for such purposes. The Issuer will 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) So long as any Unsecured Notes are outstanding, the Issuer will provide the Trustee and, upon request, to Holders of Unsecured Notes a copy of all of the information and reports referred to below:

(1) within 90 days after the end of each fiscal year (or 120 days after the end of the first fiscal year after the Acquisition Date) (or such longer period as may be permitted by the Commission pursuant to the reporting requirements for a non-accelerated filer), annual audited consolidated financial statements of the Issuer that would have been required to be contained in an Annual Report on Form 10-K under the Exchange Act if the Issuer had been a reporting company under the Exchange Act for such fiscal

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year (but only to the extent similar information is presented in the Offering Memorandum), including a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” with respect to the periods presented and a report on the annual financial statements by the Issuer’s independent accountants (all of the foregoing financial information to be prepared on a basis substantially consistent with the corresponding financial information included in the Offering Memorandum);

(2) within 45 days after the end of each of the first three fiscal quarters of each fiscal year thereafter (or 75 days after the end of the first fiscal quarter after the Issue Date for which delivery hereunder is required and 60 days after the end of the second and third fiscal quarters after the Issue Date for which delivery hereunder is required) (or such longer period as may be permitted by the Commission pursuant to the reporting requirements for a non-accelerated filer), unaudited quarterly consolidated financial statements of the Issuer (including a balance sheet, statement of operations and statement of cash flows) that would have been required to be contained in a Quarterly Report on Form 10-Q under the Exchange Act if the Issuer had been a reporting company under the Exchange Act for the interim period as of, and for the period ending on, the end of such fiscal quarter (but only to the extent similar information is presented in the Offering Memorandum), including a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” (all of the foregoing financial information to be prepared on a basis substantially consistent with the corresponding financial information included in the Offering Memorandum), subject to normal year-end adjustments and the absence of footnotes; and

(3) within 15 days after the time period specified for filing current reports on Form 8-K by the Commission, current reports containing substantially all of the information that would be required to be filed in a current report on Form 8-K under the Exchange Act on the Acquisition Date pursuant to Items 1.01, 1.03, 2.01, 2.03, 2.04, 4.01, 4.02, 5.01, 5.02(a) through (c) (other than compensation information), and 5.03(b) (in each case, excluding the financial statements, pro forma financial information and exhibits, if any, that would be required by Item 9.01) of Form 8-K if the Issuer had been a reporting company under the Exchange Act; *provided, however*, that no such current report will be required to be furnished if the Issuer determines in its good faith judgment that such event is not material to Holders or the business, assets, operations, financial position or prospects of the Issuer and its Restricted Subsidiaries, taken as a whole, or if the Issuer determines in its good faith judgment that such disclosure would otherwise cause material competitive harm to the business, assets, operations, financial position or prospects of the Issuer and its Restricted Subsidiaries, taken as a whole;

provided, however, that in addition to providing such information to the Trustee, the Issuer will be required to make available to the Holders, bona fide prospective investors in the Unsecured Notes, bona fide market makers in the Unsecured Notes affiliated with any Initial Purchaser and bona fide securities analysts (to the extent providing analysis of investment in the Unsecured Notes) such information by (i) posting to its website (or the website of any direct or indirect parent of the Issuer or of a Subsidiary of the Issuer) or on IntraLinks or any comparable password-protected online data system, in each case, subject to the extensions provided for in clauses (1) and (2) of this Section 4.03(a), within 15 days after the time the Issuer would be required to provide such information pursuant to clause (1), (2) or (3) above, as applicable, or (ii) otherwise providing substantially comparable availability of such reports (as determined by the Issuer in good faith) (it being understood that, without limitation, making such reports available on Bloomberg or another comparable private electronic information service shall constitute substantially comparable availability).

(b) Notwithstanding the foregoing, (a) the Issuer will not be required to furnish any information, financial statements, certificates or reports required by (i) Section 302, Section 404 or Section 906 of the Sarbanes-Oxley Act of 2002, or related Items 307 or 308 of Regulation S-K, (ii) Regulation G or Item 10(e) of Regulation S-K promulgated by the Commission with respect to any non-GAAP financial measures contained therein, or (iii) Rule 3-01(c), Rule 3-05, Rule 3-09, Rule 3-10 or Rule 3-16 of Regulation S-X, (b) such reports will not be required to contain any segment reporting, (c) such reports shall not be required to present compensation required by Item 402 of Regulation S-K or otherwise or beneficial ownership information and (d) the information and reports referred to

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in Section 4.03(a)(1), (2) and (3) shall not be required to include any exhibits required by Item 15 of Form 10-K, Item 6 of Form 10-Q or Item 9.01 of Form 8-K.

(c) The Issuer will be deemed to have furnished such reports referred to above to the Trustee and the Holders of the Unsecured Notes if the Issuer or any direct or indirect parent of the Issuer has (i) filed such reports with the Commission via the EDGAR (or successor) filing system or if such reports are otherwise publicly available, or (ii) posted such reports on the Issuer's (or any direct or indirect parent of the Issuer or any Subsidiary) website. The Trustee will have no responsibility to determine whether such posting has occurred.

(d) For so long as the Issuer has designated certain of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required to be provided by Section 4.03(a) will include a reasonably detailed summary presentation (which need not be audited or reviewed by the auditors), either on the face of the financial statements, in the footnotes thereto, in the "Management's Discussion and Analysis of Financial Condition and Results of Operations" or other comparable section, 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.

(e) In addition, to the extent not satisfied by the foregoing, the Issuer will agree that, for so long as any Unsecured Notes are outstanding, it will furnish to Holders of the Unsecured Notes and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act (or any successor provision).

(f) In addition, notwithstanding the foregoing, the financial statements, information and other information and documents required to be provided as described in this Section 4.03 may be, rather than those of the Issuer, those of (a) any predecessor or successor of the Issuer or any entity meeting the requirements of clause (b) or (c) of this paragraph, (b) any Wholly Owned Subsidiary of the Issuer that, together with its consolidated Subsidiaries, constitutes substantially all of the assets of the Issuer and its consolidated Subsidiaries ("*Qualified Reporting Subsidiary*") or (c) any direct or indirect parent of the Issuer; *provided* that, if the financial information so furnished relates to such Qualified Reporting Subsidiary of the Issuer or such direct or indirect parent of the Issuer, the same is accompanied by consolidating information, which may be posted to the website of the Issuer (or any direct or indirect parent of the Issuer or any Subsidiary) or on a non-public, password-protected website maintained by the Issuer or a third party, that explains in reasonable detail the differences between the information relating to such Qualified Reporting Subsidiary or such parent entity (as the case may be), on the one hand, and the information relating to the Issuer and its Restricted Subsidiaries on a standalone basis, on the other hand. For the avoidance of doubt, the consolidating information referred to in the proviso in the preceding sentence need not be audited or reviewed by the Issuer's independent accountants.

(g) So long as Unsecured Notes are outstanding, the Issuer will also:

[LISTNUM \l 3] within 30 days after furnishing to the Trustee the annual and quarterly reports required by Section 4.03(a)(1) and (2), hold a conference, at a time selected by the Issuer, call to discuss such reports and the results of operations for the relevant reporting period (it being understood that any such call may be combined with any similar call held for any of the Issuer's other lenders or security holders); and

[LISTNUM \l 3] post to its website or on IntraLinks or any comparable password-protected online data system, which will require a confidentiality acknowledgment, prior to the date of the conference call required to be held in accordance with Section 4.03(g)(a), announcing the time and date of such conference call and either including all information necessary to access the call or informing holders, prospective investors, market makers affiliated with any Initial Purchaser and securities analysts how they can obtain such information, including, without limitation, the applicable password or other login information.

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Any Person who requests or accesses such financial information required by this Section 4.03(g) will be required to represent to the Issuer (to the reasonable good faith satisfaction of the Issuer) that:

- (1) it is a Holder, a Beneficial Owner of the Unsecured Notes, a bona fide prospective investor in the Unsecured Notes or a bona fide market maker in the Unsecured Notes affiliated with any Initial Purchaser or a bona fide securities analyst providing an analysis of investment in the Unsecured Notes;
- (2) it will not use the information in violation of applicable securities laws or regulations;
- (3) it will keep such information confidential and will not communicate the information to any Person and not use such information in any manner intended to compete with the business of the Issuer and its Subsidiaries; and
- (4) it is not a Person (which includes such Person's Affiliates) that (i) is principally engaged in a Permitted Business or (ii) derives a significant portion of its revenue from operating a Permitted Business.

Notwithstanding anything herein to the contrary, failure by the Issuer to comply with any of its obligations hereunder for purposes of Section 6.01(3) will not constitute an Event of Default thereunder until 120 days after the receipt of the written notice delivered thereunder; *provided* that, to the extent any information is not provided within the time periods specified in this Section 4.03 and such information is subsequently provided, the Issuer will be deemed to have satisfied its obligations with respect thereto at such time and any Default with respect thereto shall be deemed to have been cured.

The delivery of any reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute actual or constructive knowledge or notice of any information contained therein as to which the Trustee shall be entitled to rely conclusively on Officer's Certificates.

Section 4.04 *Compliance Certificate.*

(a) The Issuer shall deliver to the Trustee, within 90 days after the end of each fiscal year (beginning with the first full fiscal year after the Issue Date, which may be delivered within 150 days after the end of such fiscal year), an Officer's Certificate stating that in the course of the performance by the signer of his or her duties as an Officer of the Issuer he or she would normally have knowledge of any Default or Event of Default and whether or not the signer knew of any Default or Event of Default that occurred during such period (and, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Issuer or Guarantors are taking or propose to take with respect thereto) and that to his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of, premium on, if any, or interest on the Unsecured Notes is prohibited or if such event has occurred, a description of the event and what action the Issuer or Guarantors are taking or propose to take with respect thereto.

(b) So long as any of the Unsecured Notes are outstanding, the Issuer will deliver to the Trustee, within 30 days of any Officer becoming aware of any Default or Event of Default (unless such Default or Event of Default has been cured or waived during such 30-day period), an Officer's Certificate specifying such Default or Event of Default, its status and what action the Issuer or the Guarantors are taking or propose to take with respect thereto.

Section 4.05 *Taxes.*

The Issuer will pay, and will cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or

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except where the failure to effect such payment would not have a material and adverse effect on the business of the Issuer and its Restricted Subsidiaries, taken as a whole.

Section 4.06 *Stay, Extension and Usury Laws.*

The Issuer and each of the Guarantors covenants (to the extent that it may lawfully do so) that it will 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; the Issuer and each of the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will 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 will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any other payment or distribution on account of the Issuer's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Issuer or any of its Restricted Subsidiaries) (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Issuer and other than dividends or distributions payable to the Issuer or a Restricted Subsidiary of the Issuer);

(2) 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 direct or indirect parent of the Issuer;

(3) make any voluntary or optional payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Issuer or any Guarantor that is unsecured or contractually subordinated in right of payment to the Unsecured Notes or to any Unsecured Note Guarantee, except any such payment on Indebtedness permitted under Section 4.09(b)(6) or (7) and a payment of interest when due or principal at the Stated Maturity thereof or the purchase, redemption, repurchase, defeasance, acquisition or retirement for value of any such Indebtedness within 365 days of the Stated Maturity thereof; or

(4) make any Restricted Investment

(all such payments and other actions set forth in clauses (1) through (4) of this Section 4.07(a) being collectively referred to as "*Restricted Payments*"), unless, at the time of and after giving effect to such Restricted Payment:

(x) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment;

(y) at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment has been made at the beginning of the applicable four-quarter period, (i) 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(b) and (ii) the Issuer's Consolidated Total Debt Ratio would be no greater than 5.25 to 1.00; and

(z) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer or its Restricted Subsidiaries since the Acquisition Date (including Restricted Payments permitted by Section 4.07(b)(3) hereof and made pursuant to this clause (z) and excluding

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Restricted Payments permitted by all other clauses of Section 4.07(b) hereof), is less than the sum, without duplication, of:

[LISTNUM \l 5] an amount (which may not be less than zero) equal to 50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) from the Issue Date to the end of the most recently ended fiscal quarter for which internal financial statements of the Issuer 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*

[LISTNUM \l 5] 100% of the aggregate net proceeds, including cash and Fair Market Value of property other than cash (as determined in accordance with Section 4.07(c) hereof), received by the Issuer after the Acquisition Date as a contribution to its common equity capital or from the issue or sale of Qualifying Equity Interests of the Issuer or any direct or indirect parent of the Issuer (excluding, without duplication, Designated Preferred Stock, the Cash Contribution Amount and Excluded Contributions), or from the issue or sale of Disqualified Stock of the Issuer or debt securities of the Issuer, in each case that have been converted into or exchanged for Qualifying Equity Interests of the Issuer (other than Qualifying Equity Interests and convertible or exchangeable Disqualified Stock or debt securities sold to a Subsidiary of the Issuer); *plus*

[LISTNUM \l 5] 100% of the aggregate amount of cash and the Fair Market Value of property other than cash (as determined in accordance with Section 4.07(c) hereof) received by the Issuer or a Restricted Subsidiary of the Issuer from (A) the sale or disposition (other than to the Issuer or a Restricted Subsidiary of the Issuer) of Restricted Investments made after the Acquisition Date and from repayments, repurchases and redemptions of such Restricted Investments from the Issuer and its Restricted Subsidiaries by any Person (other than the Issuer or its Restricted Subsidiaries) and from repayments of loans or advances that constituted Restricted Investments made after the Acquisition Date; (B) the sale (other than to the Issuer and its Restricted Subsidiaries) of the Capital Stock of an Unrestricted Subsidiary; (C) a distribution or dividend from an Unrestricted Subsidiary, to the extent that such amounts were not otherwise included in the Consolidated Net Income of the Issuer for such period; (D) any Restricted Investment that was made after the Acquisition Date in a Person that is not a subsidiary at such time that subsequently becomes a Restricted Subsidiary of the Issuer; and (E) any returns, profits, distributions and similar amounts received on account of any Permitted Investment made after the Acquisition Date subject to a dollar-denominated or ratio-based basket (to the extent in excess of the original amount of such Investment) and without duplication of any returns, profits, distributions or similar amounts included in the calculation of such basket; *plus*

[LISTNUM \l 5] in the event that any Unrestricted Subsidiary of the Issuer designated as such after the Acquisition Date is redesignated as a Restricted Subsidiary or has been merged or consolidated with or into or transfers or conveys its assets to, or is liquidated into, the Issuer or a Restricted Subsidiary of the Issuer, in each case after the Acquisition Date, an amount (which may not be less than zero) equal to 100% of the Fair Market Value of the Issuer's Restricted Investment in such Subsidiary (as determined in accordance with Section 4.07(c) hereof) as of the date of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable), after deducting any Indebtedness associated with the Unrestricted Subsidiary so designated or combined or any Indebtedness associated with the assets so transferred or conveyed (other than in each case to the extent that the designation of such Subsidiary as an Unrestricted Subsidiary constituted a Permitted Investment).

(b) The provisions of Section 4.07(a) hereof will not prohibit:

(1) 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 to the Holders of its Equity

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Interests so long as the Issuer or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution;

(2) the making of any Restricted Payment in exchange for, or out of or with 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 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 not be considered to be net proceeds of Qualifying Equity Interests for purposes of Section 4.07(a)(z)(B) hereof;

(3) the payment of any dividend or the consummation of any redemption within 90 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 or notice, the dividend or redemption payment would have complied with the provisions of this Indenture;

(4) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Issuer or any Guarantor that is unsecured or contractually subordinated in right of payment to the Unsecured Notes or to any Unsecured Note Guarantee with the net cash proceeds of Refinancing Indebtedness;

(5) the repurchase, retirement or other acquisition (or the declaration and payment of dividends to, or the making of loans to, any direct or indirect parent of the Issuer, to finance any such repurchase, retirement or other acquisition) for value of Equity Interests of the Issuer, any direct or indirect parent of the Issuer or any Restricted Subsidiary of the Issuer held by any future, present or former employee, officer, director, manager, consultant or independent contractor of the Issuer, any direct or indirect parent of the Issuer or any Subsidiary of the Issuer (or any such Person's estates, heirs, family members, spouses or former spouses or permitted transferees) (including for all purposes of this clause (5), Equity Interests held by any entity whose Equity Interests are held by any such future, present or former employee, officer, director, manager, consultant or independent contractor (or their estates, heirs, family members, spouses or former spouses or permitted transferees) pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or other similar agreement or arrangement; *provided* that the aggregate amounts paid under this clause (5) do not exceed (i) the greater of (x) \$25.0 million and (y) 8.0% of Consolidated EBITDA in any calendar year or (ii) subsequent to the consummation of any public Equity Offering of common stock or other comparable equity interests of the Issuer or any direct or indirect parent of the Issuer, the greater of (x) \$40.0 million and (y) 12.0% of Consolidated EBITDA (in each case, with unused amounts in any calendar year being permitted to be carried over for succeeding calendar years); *provided, further*, that such amount in any calendar year may be increased by an amount not to exceed:

(a) the cash proceeds received by the Issuer or any of its Restricted Subsidiaries from the sale of Qualifying Equity Interests of the Issuer or any direct or indirect parent of the Issuer (to the extent contributed to the Issuer), to any employee, officer, director, manager, consultant or independent contractor of the Issuer and its Restricted Subsidiaries or any direct or indirect parent of the Issuer that occurs after the Acquisition Date; *provided* that the amount of such cash proceeds utilized for any such repurchase, retirement, other acquisition or dividend will not increase the amount available for Restricted Payments pursuant to Section 4.07(a)(z) hereof; *plus*

(b) the cash proceeds of key man life insurance policies received by the Issuer or any direct or indirect parent of the Issuer (to the extent contributed to the Issuer), and its Restricted Subsidiaries after the Acquisition Date; *plus*

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(c) the amount of any cash bonuses otherwise payable to employees, officers, directors, managers, consultants or independent contractors of the Issuer or its Restricted Subsidiaries or any direct or indirect parent of the Issuer that are foregone in return for the receipt of Equity Interests; *less*

(d) the amount of cash proceeds described in subclause (a), (b) or (c) of this Section 4.07(b)(5) previously used to make Restricted Payments pursuant to this Section 4.07(b)(5);

provided that the Issuer may elect to apply all or any portion of the aggregate increase contemplated by clauses (a), (b) and (c) of this Section 4.07(b)(5) in any calendar year;

(6) the repurchase of Equity Interests (or the declaration and payment of any dividends to, or the making of loans or advances to, any direct or indirect parent of the Issuer to finance such repurchase) (i) deemed to occur upon the exercise of stock options, warrants or other similar stock-based awards to the extent such Equity Interests represent a portion of the exercise price of those stock options, warrants or other similar stock-based awards or (ii) in connection with a gross-up for tax withholding related to such Equity Interests;

(7) the declaration and payment of dividends to holders of a class or series of Disqualified Stock of the Issuer or any Restricted Subsidiary or any preferred stock of any Restricted Subsidiary of the Issuer issued on or after the Acquisition Date in accordance with Section 4.09 hereof;

(8) payments of cash, dividends, distributions, advances or other Restricted Payments by the Issuer or any of its Restricted Subsidiaries to allow the payment of cash in lieu of the issuance of fractional shares or upon the purchase, redemption or acquisition of fractional shares (or the declaration and payment of any dividends to, or the making of loans to, any direct or indirect parent of the Issuer to finance such payment, purchase, redemption or acquisition), including in connection with (i) the exercise of options or warrants, (ii) the conversion or exchange of Capital Stock or (iii) stock dividends, splits or combinations or business combinations;

(9) Permitted Payments to Parent;

(10) [reserved];

(11) the declaration and payment of dividends on the Issuer's common stock (or the payment of dividends to any direct or indirect parent of the Issuer to fund the payment of dividends on its common stock) in an aggregate amount not to exceed in any fiscal year 6.0% of the net proceeds received by the Issuer (or by any direct or indirect parent of the Issuer and contributed to the Issuer) from any Equity Offerings after the Issue Date of the Issuer or any direct or indirect parent of the Issuer;

(12) Restricted Payments that are made with Excluded Contributions;

(13) the payment of dividends, other distributions and other amounts by the Issuer to, or the making of loans to, any direct or indirect parent of the Issuer, in the amount required for such parent to, if applicable, pay amounts equal to amounts required for any direct or indirect parent of the Issuer, if applicable, to pay interest and/or principal on Indebtedness the proceeds of which have been permanently contributed to the Issuer or any of its Restricted Subsidiaries and that has been guaranteed by, or is otherwise considered Indebtedness of, the Issuer or any of its Restricted Subsidiaries incurred in accordance with Section 4.09 hereof; *provided* that in no event shall the contribution of the proceeds of such Indebtedness to the Issuer or any of its Restricted Subsidiaries be applied to increase the capacity under Section 4.07(a).

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(14) the payment, purchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness that is unsecured or contractually subordinated in right of payment to the Unsecured Notes, Disqualified Stock or preferred stock of the Issuer and its Restricted Subsidiaries pursuant to provisions similar to those described in Section 4.10 and Section 4.14 hereof; *provided* that, prior to such payment, purchase, redemption, defeasance or other acquisition or retirement for value, the Issuer (or a third party to the extent permitted by this Indenture) has, to the extent required by this Indenture, made a Change of Control Offer, Alternate Offer or Asset Sale Offer, as the case may be, with respect to the Unsecured Notes as a result of such Change of Control or Asset Sale, as the case may be, and has repurchased all Unsecured Notes validly tendered and not withdrawn in connection with such Change of Control Offer, Alternate Offer or Asset Sale Offer, as the case may be;

(15) the distribution, as a dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Issuer or a Restricted Subsidiary of the Issuer by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries the primary asset of which are cash and/or Cash Equivalents);

(16) other Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this Section 4.07(b)(16) not to exceed the greater of (x) \$25.0 million and (y) 7.5% of Consolidated EBITDA;

(17) any Restricted Payment made in connection with the Transactions described or contemplated by the Offering Memorandum and the fees and expenses related thereto or made to fund amounts owed to Affiliates (including the declaration and payment of dividends to, or the making of loans to, any direct or indirect parent company of the Issuer to fund such payment), in each case to the extent permitted by Section 4.11 hereof;

(18) the repayment of intercompany debt between or among the Issuer and any of its Restricted Subsidiaries;

(19) payments and distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a sale, consolidation, merger, amalgamation or transfer of all or substantially all of the assets of the Issuer and its Restricted Subsidiaries taken as a whole that complies with the terms of this Indenture, including Section 5.01 hereof;

(20) the declaration and payment of dividends or distributions to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued after the Acquisition Date and the declaration and payment of dividends to any 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 (other than Disqualified Stock) of any direct or indirect parent of the Issuer, issued after the Acquisition Date; *provided, however*, that (a) the Fixed Charge Coverage Ratio for the Issuer's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such Designated Preferred Stock is issued, after giving effect to such issuance (and the payment of dividends or distributions) on a Pro Forma Basis, would have been at least 2.00 to 1.00 and (b) the aggregate amount of dividends declared and paid pursuant to this Section 4.07(b)(20) does not exceed the net cash proceeds actually received by the Issuer from any such sale of Designated Preferred Stock (other than Disqualified Stock) issued after the Acquisition Date;

(21) [reserved];

(22) [reserved];

(23) any payment that is intended to prevent any Indebtedness from being treated as an "applicable high yield discount obligation" within the meaning of Section 163(i)(1) of the Code;

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(24) [reserved]; and

(25) following the Escrow Release, the payment of a dividend or other distribution the proceeds of which are used to consummate the Acquisition or the Reorganization in an amount equal to the sum of (x) the excess of the Escrowed Funds immediately prior to the Escrow Release over an amount equal to the gross cash proceeds from the offering of the Unsecured Notes issued on the Issue Date and (y) the excess of the funds contained in the escrow accounts holding the gross proceeds of the Secured Notes (together with any earnings thereon and investments thereof) immediately prior to the Escrow Release over an amount equal to the gross cash proceeds from the offerings of the Secured Notes of each series issued on the Issue Date;

provided, however, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (5), (12), (16) and (20) of this Section 4.07(b), no Event of Default shall have occurred and be continuing or would occur as a consequence thereof.

(c) Other than as set forth under Section 1.04 hereof, the amount of all Restricted Payments (other than cash) 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 the Issuer or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. For purposes of determining compliance with this Section 4.07, in the event that a Restricted Payment or Investment meets the criteria of more than one of the categories of Restricted Payments described in clauses (1) through (25) of Section 4.07(b) hereof or clauses (1) through (25) of the definition of "Permitted Investment" or is entitled to be incurred pursuant to Section 4.07(a) hereof, the Issuer will be entitled to classify such Restricted Payment or Investment (or portion thereof) on the date of its payment or date of determination in any manner that complies with this Section 4.07 or the definition of "Permitted Investment" as of the date of such payment or date of determination. If the Issuer or any of its Restricted Subsidiaries makes a Restricted Payment that, at the time of the making of such Restricted Payment, in the good faith determination of the Issuer, would be permitted under the requirements of this Indenture, such Restricted Payment shall be deemed to have been made in compliance with this Indenture notwithstanding any subsequent adjustment made in good faith to the Issuer's financial statements affecting Consolidated Net Income.

Section 4.08 *Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.*

(a) The Issuer will not, and will not permit any of its Restricted Subsidiaries that are not Guarantors to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary that is not a Guarantor to:

(1) pay dividends or make any other distributions on its Capital Stock to the Issuer or any of its Restricted Subsidiaries, 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 of its Restricted Subsidiaries;

(2) make loans or advances to the Issuer or any of its Restricted Subsidiaries; or

(3) sell, lease or transfer any of its properties or assets to the Issuer or any of its Restricted Subsidiaries.

(b) The restrictions in Section 4.08(a) hereof will not apply to encumbrances or restrictions existing under or by reason of:

(1) contractual encumbrances or restrictions of the Issuer or any of its Restricted Subsidiaries (i) in effect on the Acquisition Date or (ii) pursuant to the New ABL Credit Agreement and other documents relating to the New ABL Credit Agreement, related swap contracts and Indebtedness permitted pursuant to Section 4.09(b)(2);

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(2) (i) this Indenture, the Unsecured Notes and the Unsecured Note Guarantees (and any Additional Unsecured Notes and related guarantees) and (ii) the Secured Notes Indentures, the Secured Notes and the Secured Note Guarantees (and any Additional Secured Notes (as defined in the Secured Notes Indentures) and related guarantees) and the Security Documents;

(3) agreements governing other Indebtedness, Disqualified Stock or preferred stock permitted to be incurred under the provisions of Section 4.09 hereof and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; *provided* that the restrictions therein either (i) are not materially more restrictive than those contained in agreements governing Indebtedness in effect on the Acquisition Date, or (ii) are not materially more disadvantageous to Holders of the Unsecured Notes than is customary in comparable financings (as determined by the Issuer in good faith, which determination shall be conclusive) and in the case of subclause (ii) either (x) the Issuer determines (in good faith) that such encumbrance or restriction will not affect the Issuer's ability to make principal or interest payments on the Unsecured Notes or (y) such encumbrances or restrictions apply only during the continuance of a default in respect of payment or a financial maintenance covenant relating to such Indebtedness;

(4) applicable law, rule, regulation, order, approval, license, permit or similar restriction;

(5) any instrument of a Person acquired by, or merged, amalgamated or consolidated with or into, the Issuer or any of its Restricted Subsidiaries as in effect at the time of such acquisition or at the time it merges with or into the Issuer or any Restricted Subsidiary (except to the extent such instrument was entered into in connection with or in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired or designated; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;

(6) customary non-assignment or sub-letting provisions in contracts, leases, sub-leases and licenses entered into in the ordinary course of business;

(7) purchase money obligations, mortgage financings and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (3) of Section 4.08(a) hereof;

(8) contracts for the sale or other disposition of Capital Stock or assets, including any agreement for the sale or other disposition of a Restricted Subsidiary of all or substantially all of the assets of such Restricted Subsidiary in compliance with the terms of this Indenture that restricts distributions by that Restricted Subsidiary pending such sale or other disposition;

(9) Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(10) Secured Indebtedness otherwise permitted to be incurred pursuant to Section 4.09 hereof and Liens permitted to be incurred pursuant to the provisions of Section 4.12 hereof;

(11) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements, limited liability company organizational documents and other similar agreements (including agreements entered into in connection with a Permitted Investment or pursuant to Section 4.07 hereof), which limitation is applicable only to the assets that are the subject of such agreements;

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- (12) restrictions on cash, Cash Equivalents or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;
- (13) customary provisions in joint venture agreements and other similar agreements entered into in the ordinary course of business;
- (14) any Restricted Investment not prohibited by Section 4.07 hereof and any Permitted Investment;
- (15) [reserved];
- (16) other Indebtedness, Disqualified Stock or preferred stock of Non-Guarantor Subsidiaries that is incurred or issued subsequent to the Acquisition Date pursuant to Section 4.09 hereof;
- (17) any encumbrance or restriction with respect to an Unrestricted Subsidiary pursuant to or by reason of an agreement that the Unrestricted Subsidiary is a party to or entered into before the date on which such Unrestricted Subsidiary became a Restricted Subsidiary of the Issuer; *provided* that such agreement was not entered into in anticipation of the Unrestricted Subsidiary becoming a Restricted Subsidiary of the Issuer and any such encumbrance or restriction does not extend to any assets or property of the Issuer of any Restricted Subsidiary other than the assets and property of such Unrestricted Subsidiary;
- (18) provisions with respect to the receipt of a rebate on an operating lease until all obligations due to a lessor on other operating leases are satisfied or other customary restrictions in respect of assets or contract rights acquired by a Restricted Subsidiary of the Issuer in connection with a Sale/Leaseback Transaction;
- (19) encumbrances and restrictions contained in contracts entered into in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of property or assets of the Issuer or any Restricted Subsidiary of the Issuer or the ability of the Issuer or such Restricted Subsidiary to realize such value, or to make any distributions relating to such property or assets in each case in any material respect; and
- (20) any encumbrances or restrictions of the type referred to in Sections 4.08(a)(1), (2) and (3) hereof imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (19) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Issuer, not materially more restrictive as a whole with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

For purposes of determining compliance with this covenant, (i) the priority of any preferred stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common shares shall not be deemed a restriction on the ability to make distributions on Capital Stock and (ii) the subordination of loans or advances made to the Issuer or a Restricted Subsidiary of the Issuer to other Indebtedness incurred by the Issuer or any such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

Section 4.09 *Incurrence of Indebtedness and Issuance of Disqualified Stock or Preferred Stock.*

- (a) The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise,

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with respect to (collectively, “*incur*”) any Indebtedness (including Acquired Debt), and the Issuer will not issue any Disqualified Stock and will not permit (a) any of its Restricted Subsidiaries to issue any shares of Disqualified Stock or (b) any Non-Guarantor Subsidiaries to issue any shares of preferred stock; *provided, however*, that the Issuer and any Guarantor may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock if the Fixed Charge Coverage Ratio for the Issuer’s most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or such preferred stock is issued or the date of determination, as the case may be, would have been at least 2.00 to 1.00 (such Indebtedness, Disqualified Stock or preferred stock incurred or issued pursuant to this paragraph, “*Ratio Debt*”).

(b) The provisions of Section 4.09(a) hereof will not prohibit the incurrence of any of the following (collectively, “*Permitted Debt*”):

(1) the incurrence by the Issuer or its Restricted Subsidiaries of Indebtedness or Disqualified Stock or the issuance by its Non-Guarantor Subsidiaries of preferred stock under any Credit Agreement, the guarantees thereof and the issuance and creation of letters of credit and bankers’ acceptances thereunder (with letters of credit and bankers’ acceptances being deemed to have a principal amount equal to the face amount thereof) up to an aggregate principal amount or liquidation preference, if applicable, not to exceed at any one time outstanding the sum of:

(a) the greater of (x) \$50.0 million and (y) 15.0% of Consolidated EBITDA of the Issuer for the most recently ended four full fiscal quarter period for which internal financial statements are available immediately preceding such date of determination, calculated on a *Pro Forma* Basis;

(b) (x) \$375.0 million plus (y) the Additional Cash Capped Grower Amount; and

(c) the Maximum Incremental Leverage Amount; *provided* that this clause (c) shall only be available to the extent that any amounts available under clause (a) have previously been fully utilized at the time of incurrence;

plus, in the case of any refinancing of any Indebtedness permitted under this clause (1) or any portion thereof, any Additional Refinancing Amount; *provided* that solely for purposes of calculating the Consolidated Senior Secured Debt Ratio under this clause (1), (A) any Indebtedness, Disqualified Stock and preferred stock incurred under this clause (1) shall, in each case, be deemed to be secured by a Lien on assets of the Issuer and its Restricted Subsidiaries irrespective of whether such Indebtedness, Disqualified Stock or preferred stock actually constitutes secured Indebtedness, (B) any Disqualified Stock and preferred stock issued under this clause (1) shall be included in the calculation of Consolidated Total Indebtedness and (C) any calculation under subclause (c) will give pro forma effect to the incurrence of Indebtedness or issuance of Disqualified Stock or preferred stock on such date;

(2) Indebtedness of the Issuer and its Restricted Subsidiaries existing on the Acquisition Date immediately after giving effect to the Transactions (excluding Indebtedness described in clauses (1) and (3) of this Section 4.09(b));

(3) the incurrence by the Issuer and its Restricted Subsidiaries (including any future Guarantors) of Indebtedness represented by (a) the Unsecured Notes issued on the Issue Date and the Unsecured Note Guarantees and (b) the Secured Notes issued on the Issue Date and the related Guarantees thereof;

(4) Indebtedness, Disqualified Stock or preferred stock incurred by the Issuer or any of its Restricted Subsidiaries, including Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations (including such Indebtedness as lessee or guarantor), in each case, incurred for the purpose of financing all or any part of the acquisition, lease or cost of design,

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construction, installation, repair, replacement or improvement of property, plant or equipment 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 or liquidation preference, including all Indebtedness incurred or Disqualified Stock or preferred stock issued, to Refinance (as defined below) any Indebtedness incurred pursuant to this clause (4), not to exceed the greater of (x) \$50.0 million and (y) 15.0% of Consolidated EBITDA, at any one time outstanding, *plus*, in the case of any Refinancing of any Indebtedness, Disqualified Stock or preferred stock permitted under this clause (4) or any portion thereof, Additional Refinancing Amounts (it being understood that any Indebtedness, Disqualified Stock or preferred stock incurred pursuant to this clause (4) shall cease to be deemed incurred or outstanding pursuant to this clause (4) but shall be deemed incurred and outstanding as Ratio Debt from and after the first date on which the Issuer or such Restricted Subsidiary, as the case may be, could have incurred such Indebtedness or issued such Disqualified Stock or preferred stock as Ratio Debt);

(5) the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness or Disqualified Stock or preferred stock of the Issuer or a Restricted Subsidiary that serves to refund, refinance, replace, redeem, repurchase, retire, discharge or defease (collectively, “*Refinance*”), and is in an aggregate principal amount (or if issued with original issue discount an aggregate issue price) that is equal to or less than, Indebtedness incurred or Disqualified Stock or preferred stock issued as Ratio Debt or permitted under clauses (2), (3), this clause (5), (13) or (17) of this Section 4.09(b) or subclause (y) of each of clauses (4), (12), (21), (24) or (28) of this Section 4.09(b) (provided that any amounts incurred under this Section 4.09(b)(5) as Refinancing Indebtedness of subclause (y) of Section 4.09(b)(4), (12), (21), (24) or (28) shall reduce the amount available under such clauses so long as such Refinancing Indebtedness remains outstanding) or any Indebtedness incurred or Disqualified Stock or preferred stock issued to so Refinance such Indebtedness, Disqualified Stock or preferred stock, *plus* any Additional Refinancing Amount (subject to the following proviso, “*Refinancing Indebtedness*”) prior to its respective maturity; *provided, however*, that such Refinancing Indebtedness:

(a) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred that is not less than the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or preferred stock being refunded, refinanced, replaced, redeemed, repurchased or retired;

(b) has a Stated Maturity that is no earlier than the Stated Maturity of the Indebtedness being Refinanced;

(c) to the extent that such Refinancing Indebtedness Refinances (i) Subordinated Indebtedness, such Refinancing Indebtedness is Subordinated Indebtedness, or (ii) Disqualified Stock or preferred stock, such Refinancing Indebtedness is Disqualified Stock or preferred stock, respectively; and

(d) shall not include (x) Indebtedness, Disqualified Stock or preferred stock of a Non-Guarantor Subsidiary that Refinances Indebtedness, Disqualified Stock or preferred stock of the Issuer or a Guarantor, or (y) Indebtedness or Disqualified Stock of the Issuer or Indebtedness, Disqualified Stock or preferred stock of a Restricted Subsidiary that Refinances Indebtedness, Disqualified Stock or preferred stock of an Unrestricted Subsidiary;

provided that subclauses (a) and (b) shall not apply to Refinancing Indebtedness incurred to Refinance any Secured Indebtedness;

(6) the incurrence by the Issuer or any of its Restricted Subsidiaries of intercompany Indebtedness and cash management pooling obligations and arrangements between or among the Issuer and any of its Restricted Subsidiaries; *provided, however*, that:

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[LISTNUM \l 5] if the Issuer or any Guarantor is the obligor on such Indebtedness (other than cash management pooling obligations and arrangements) and the payee is not the Issuer or a Guarantor, such Indebtedness must be unsecured and expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the Unsecured Notes, in the case of the Issuer, or the Unsecured Note Guarantee, in the case of a Guarantor; and

[LISTNUM \l 5] (i) any 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 and (ii) any 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 issuance of such Indebtedness by the Issuer or such Restricted Subsidiary, as the case may be, that was not permitted by this Section 4.09(b)(6);

(7) the issuance by any of the Issuer's Restricted Subsidiaries to the Issuer or to any other Restricted Subsidiary of the Issuer of shares of preferred stock; *provided, however*, that:

[LISTNUM \l 5] any 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; and

[LISTNUM \l 5] any 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 Section 4.09(b)(7);

(8) the incurrence by the Issuer or any of the Issuer's Restricted Subsidiaries of Hedging Obligations or Treasury Management Arrangement, and in the case of Hedging Obligations, that are bona fide hedging activities and are not for speculative purposes;

(9) the guarantee by the Issuer or any Restricted Subsidiary of the Issuer of Indebtedness and cash management pooling obligations and arrangements of the Issuer or a Restricted Subsidiary of the Issuer, in each case, to the extent that the guaranteed Indebtedness was permitted to be incurred by another provision of this covenant; *provided* that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the Unsecured Notes, then the Guarantee must be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness guaranteed;

(10) the incurrence by the Issuer or any of the Issuer's Restricted Subsidiaries of Indebtedness in respect of letters of credit, bank guarantees, workers' compensation claims, payment obligations in connection with health or other types of social security benefits, unemployment or other insurance or self-insurance obligations, bankers' acceptances, guarantees, performance, surety, statutory, appeal, completion, export or import, indemnities, customs, revenue bonds or similar instruments in the ordinary course of business, including guarantees or obligations with respect thereto (in each case other than for an obligation for money borrowed); *provided, however*, that upon the drawing of any letters of credit, such obligations are reimbursed within 60 days following such drawing;

(11) the incurrence by the Issuer or any of the Issuer's Restricted Subsidiaries 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;

(12) the incurrence by Non-Guarantor Subsidiaries or the issuance by Non-Guarantor Subsidiaries of Disqualified Stock or preferred stock in an aggregate principal amount or liquidation preference, as applicable, pursuant to this Section 4.09(b)(12), including all Indebtedness of Non-Guarantor

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Subsidiaries incurred or Disqualified Stock or preferred stock of Non-Guarantor Subsidiaries issued to Refinance any Indebtedness incurred pursuant to this Section 4.09(b)(12), not to exceed the greater of (x) \$25.0 million and (y) 7.5% of Consolidated EBITDA, *plus* in the case of any Refinancing of any Indebtedness, Disqualified Stock or preferred stock permitted under this Section 4.09(b)(12) or any portion thereof, the aggregate amount of fees, original issue discount, underwriting discounts, accrued and unpaid interest, premiums and other costs and expenses incurred in connection therewith, at any one time outstanding (it being understood that any Indebtedness incurred or Disqualified Stock or preferred stock issued pursuant to this Section 4.09(b)(12) shall cease to be deemed incurred, issued or outstanding pursuant to this Section 4.09(b)(12) but shall be deemed incurred or issued and outstanding as Ratio Debt from and after the first date on which such Non-Guarantor Subsidiary could have incurred such Indebtedness or issued such Disqualified Stock or preferred stock as Ratio Debt (to the extent such Non-Guarantor Subsidiary is able to incur any Liens related thereto as Permitted Liens after such reclassification));

(13) (a) Indebtedness, Disqualified Stock or preferred stock (i) of the Issuer or any of its Restricted Subsidiaries assumed in connection with an acquisition of any assets (including Capital Stock), business or Person (including any merger, consolidation or amalgamation of such Person with the Issuer or any of its Restricted Subsidiaries) and such Indebtedness, Disqualified Stock or preferred stock was not incurred or issued in contemplation of such acquisition and (ii) of any Person that is acquired by the Issuer or any of its Restricted Subsidiaries or merged into or consolidated or amalgamated with the Issuer or a Restricted Subsidiary in accordance with the terms of this Indenture and (b) Indebtedness, Disqualified Stock or preferred stock incurred or assumed in anticipation of an acquisition of any assets, business or Person so long as such Indebtedness, Disqualified Stock or preferred stock was not incurred or issued in contemplation of such acquisition; *provided, however*, that after giving effect to such acquisition, merger, consolidation or amalgamation and the incurrence of such Indebtedness, either (x) the Issuer would be permitted to incur at least \$1.00 of additional Indebtedness as Ratio Debt or (y) the Fixed Charge Coverage Ratio of the Issuer is equal to or greater than immediately prior to such acquisition, merger, consolidation or amalgamation;

(14) the incurrence by the Issuer or its Restricted Subsidiaries of Indebtedness arising from agreements providing for indemnification, adjustment of purchase or acquisition price, earn outs or similar obligations, incurred in connection with the Transactions or the acquisition or disposition of any business, assets or Restricted Subsidiary of the Issuer (other than Guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or Restricted Subsidiary for the purpose of financing such acquisition);

(15) the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness arising in connection with endorsement of instruments for collection or deposit (including customary Treasury Management Arrangements) in the ordinary course of business;

(16) the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness consisting of obligations to pay insurance premiums in an amount not to exceed the annual premiums in respect of such insurance premiums at any one time outstanding;

(17) Contribution Indebtedness; *provided* that any Indebtedness of the Issuer or any Restricted Subsidiary of the Issuer incurred pursuant to this Section 4.09(b)(17) shall cease to be deemed incurred or outstanding for purposes of this Section 4.09(b)(17) but shall be deemed incurred as Ratio Debt from and after the first date on which the Issuer or any Restricted Subsidiary of the Issuer could have incurred such Indebtedness as Ratio Debt without reliance on this Section 4.09(b)(17);

(18) Indebtedness or Disqualified Stock of the Issuer or any of its Restricted Subsidiaries or preferred stock of any Non-Guarantor Subsidiary, the proceeds of which are applied to defease or discharge the Unsecured Notes in accordance with Article 8 or 11 hereof;

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(19) take-or-pay obligations contained in supply arrangements entered into by the Issuer or a Restricted Subsidiary of the Issuer in the ordinary course of business;

(20) Indebtedness related to unfunded pension fund and other employee benefit plan obligations and liabilities to the extent they are permitted to remain unfunded under applicable law;

(21) the incurrence by the Issuer or any Guarantor of additional Indebtedness or the issuance by the Issuer or any Guarantor of Disqualified Stock or the issuance by any Guarantor of preferred stock in an aggregate principal amount (or accreted value, as applicable) or liquidation value at any time outstanding, including all Indebtedness incurred or Disqualified Stock or preferred stock issued to Refinance any Indebtedness incurred or Disqualified Stock or preferred stock issued pursuant to this clause (21), not to exceed the greater of (x) \$25.0 million and (y) 7.5% of Consolidated EBITDA, at any one time outstanding, *plus* in the case of any Refinancing of any Indebtedness permitted under this clause or any portion thereof, Additional Refinancing Amounts; *provided* that any Indebtedness of the Issuer or any Guarantor incurred and any Disqualified Stock or preferred stock issued pursuant to this clause (21) shall cease to be deemed incurred or outstanding for purposes of this clause (21) but shall be deemed incurred or issued, as applicable, as Ratio Debt from and after the first date on which the Issuer or any Guarantor could have incurred such Indebtedness or issued such Disqualified Stock or preferred stock as Ratio Debt without reliance on this clause (21);

(22) Indebtedness of the Issuer or any of its Restricted Subsidiaries supported by a letter of credit or bank guarantee issued pursuant to any Credit Agreement in a principal amount not in excess of the stated amount of such letter of credit;

(23) Indebtedness, Disqualified Stock or preferred stock incurred by the Issuer or any Restricted Subsidiary to future, current or former employees, officers, directors, managers, consultants and independent contractors thereof or any direct or indirect parent thereof, or their respective estates, heirs, family members, spouses or former spouses or permitted transferees, in each case to finance the purchase or redemption of Equity Interests of the Issuer or any direct or indirect parent of the Issuer to the extent permitted under Section 4.07 hereof;

(24) the incurrence by the Issuer or any of its Restricted Subsidiaries of Indebtedness incurred or Disqualified Stock or preferred stock issued on behalf of, or representing Guarantees of Indebtedness incurred or Disqualified Stock or preferred stock issued by, joint ventures; *provided* that the aggregate principal amount of Indebtedness incurred or guaranteed or Disqualified Stock or preferred stock issued or guaranteed pursuant to this Section 4.09(b)(24) does not exceed the greater of (x) \$25.0 million and (y) 7.5% of Consolidated EBITDA at any one time outstanding (it being understood that any Indebtedness incurred or Disqualified Stock or preferred stock issued pursuant to this Section 4.09(b)(24) shall cease to be deemed incurred, issued or outstanding pursuant to this Section 4.09(b)(24) but shall be deemed incurred or issued and outstanding as Ratio Debt from and after the first date on which the Issuer or its Restricted Subsidiary, as the case may be, could have incurred or guaranteed such Indebtedness or issued or guaranteed such Disqualified Stock or preferred stock as Ratio Debt (to the extent the Issuer or such Restricted Subsidiary is able to incur any Liens related thereto as Permitted Liens after such reclassification));

(25) Indebtedness, Disqualified Stock or preferred stock consisting of obligations of the Issuer or any Restricted Subsidiary under deferred compensation or other similar arrangements incurred by such Person in connection with the Transactions or any Permitted Investment;

(26) (i) guarantees incurred in the ordinary course of business in respect of obligations to suppliers, customers, franchisees, lessors, licensees, sub-licensees and distribution partners and
(ii) Indebtedness incurred by the Issuer or a Restricted Subsidiary as a result of leases entered into by the

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Issuer or such Restricted Subsidiary or any direct or indirect parent of the Issuer in the ordinary course of business;

(27) [reserved];

(28) [reserved]; and

(29) to the extent constituting Indebtedness, any Indebtedness in respect of payments to minority shareholders pursuant to appraisal or dissenters' rights with respect to shares in the Ultimate Issuer or an Acquired Entity or Business held by such shareholders immediately prior to the Acquisition or permitted acquisition of an Acquired Entity or Business, as applicable.

(c) The Issuer will not incur, and will not permit any Guarantor to incur, any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Issuer or such Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Unsecured Notes and the Unsecured Note Guarantee on substantially identical terms; *provided, however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Issuer or any Restricted Subsidiary solely by virtue of being unsecured or by virtue of being secured on a junior priority basis.

(d) For purposes of determining compliance with this Section 4.09, in the event that an item of Indebtedness or any Disqualified Stock or preferred stock meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (29) above, or is entitled to be incurred or issued as Ratio Debt pursuant to Section 4.09(a) hereof, the Issuer will be permitted to classify, divide or reclassify such item of Indebtedness or Disqualified Stock or preferred stock on the date of determination or its incurrence or issuance, or later reclassify all or a portion of such item of Indebtedness or Disqualified Stock or preferred stock, in any manner that complies with this Section 4.09. The accrual of interest or dividends, 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 preferred stock or Disqualified Stock in the form of additional shares of preferred stock or Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of preferred stock or Disqualified Stock for purposes of this Section 4.09 or Section 4.12 hereof; *provided*, in each such case, that the amount thereof shall be included in Fixed Charges of the Issuer as accrued. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness or the issuance of Disqualified Stock or preferred stock, the U.S. dollar-equivalent principal amount of Indebtedness or the liquidation preference of Disqualified Stock or preferred stock denominated in a foreign currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving or delayed draw Indebtedness, or first issued, in the case of Disqualified Stock or preferred stock, or, in each case, at the option of the borrower or issuer of such Indebtedness, Disqualified Stock or preferred stock, the date on which the rate of interest and other pricing terms of such Indebtedness, Disqualified Stock or preferred stock are determined or the date of determination; *provided* that if such Indebtedness, Disqualified Stock or preferred stock is Indebtedness incurred or Disqualified Stock or preferred stock issued to Refinance other Indebtedness, Disqualified Stock or preferred stock denominated in a foreign currency (or in a different currency from such Indebtedness so being incurred or Disqualified Stock or preferred stock being issued), and such Refinancing would cause the applicable clauses of the definition of "Permitted Debt" (or categories of Permitted Liens) measured by a dollar amount or by reference to a percentage of Consolidated EBITDA to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such Refinancing, such clauses of the definition of "Permitted Debt" (or categories of Permitted Liens) measured by a dollar amount or by reference to a percentage of Consolidated EBITDA shall be deemed not to have been exceeded so long as the principal amount of such Indebtedness or liquidation preference of such Disqualified Stock or preferred stock does not exceed (i) the outstanding or, in the case of revolving Indebtedness, committed, principal amount of such Indebtedness or the liquidation preference of such Disqualified Stock or preferred stock being Refinanced *plus* (ii) the aggregate amount of Additional Refinancing Amounts incurred or payable in connection with such Refinancing. Notwithstanding any other provision of this Section 4.09, the maximum amount of

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Indebtedness, Disqualified Stock or preferred stock that the Issuer or any Restricted Subsidiary of the Issuer may incur or issue 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.

(e) For purposes of calculating any ratio-based basket, with respect to any revolving Indebtedness, delayed draw facility or other committed debt financing incurred under such ratio-based basket, the Issuer may elect (which election may not be changed with respect to such Indebtedness), at any time, to either (x) give pro forma effect to the incurrence of the entire committed amount of such Indebtedness, in which case such committed amount may thereafter be borrowed or reborrowed, in whole or in part, from time to time, without further compliance with any ratio-based component of any provision of this Indenture, or (y) give pro forma effect to the incurrence of the actual amount drawn under such revolving Indebtedness, delayed draw facility or other committed debt financing, in which case, the ability to incur the amounts committed to under such Indebtedness will be subject to such ratio-based basket (to the extent being incurred pursuant to such ratio) at the time of each such incurrence. For purposes of determining compliance with, and the outstanding principal amount or liquidation preference, as applicable, of any particular Indebtedness incurred or Disqualified Stock or preferred stock issued pursuant to and in compliance with, this Section 4.09, if any commitments in respect of revolving or deferred draw Indebtedness are established in reliance on any clause of the definition of "Permitted Debt" measured by reference to a percentage of Consolidated EBITDA, at the Issuer's option, on the date of the initial borrowing of such Indebtedness or entry into the definitive agreement providing the commitment to fund such Indebtedness after giving pro forma effect to the incurrence of the entire committed amount of such Indebtedness (such committed amount, a "*Grower Tested Committed Amount*") may thereafter be borrowed and reborrowed, in whole or in part, from time to time, irrespective of whether or not such incurrence would cause such percentage of Consolidated EBITDA to be exceeded and such Grower Tested Committed Amount shall be deemed outstanding pursuant to such basket so long as such commitments are in effect. If any Indebtedness is incurred or any Disqualified Stock or preferred stock is issued to Refinance Indebtedness (or unutilized commitments in respect of Indebtedness) initially incurred (or established) or Disqualified Stock or preferred stock issued (or to Refinance Indebtedness incurred (or commitments established) or Disqualified Stock or preferred stock issued) to Refinance Indebtedness initially incurred (or commitments initially established) or Disqualified Stock or preferred stock initially issued in reliance on any clause or clauses of the definition of "Permitted Debt" measured by reference to a percentage of Consolidated EBITDA or a ratio-based basket at the time of incurrence or issuance, and such Refinancing would cause such percentage of Consolidated EBITDA to be exceeded or ratio to be unmet if calculated based on the date of such Refinancing, such percentage of Consolidated EBITDA or ratio shall not be deemed to be exceeded or unmet (and such Indebtedness, Disqualified Stock or preferred stock shall be deemed permitted) so long as the principal amount or the liquidation preference of such Indebtedness, Disqualified Stock or preferred stock does not exceed an amount equal to the principal amount or liquidation preference of such Indebtedness, Disqualified Stock or preferred stock being Refinanced, *plus* Additional Refinancing Amounts in connection with such Refinancing.

(f) [Reserved].

(g) If Indebtedness originally incurred or Disqualified Stock or preferred stock originally issued in reliance upon a percentage of Consolidated EBITDA or the Maximum Incremental Leverage Amount under clause (1) of Section 4.09(b) hereof is being refinanced under such clause (1) and such refinancing would cause the maximum amount of Indebtedness, Disqualified Stock or preferred stock thereunder to be exceeded at such time, then such refinancing will nevertheless be permitted thereunder and such additional Indebtedness, Disqualified Stock or preferred stock will be deemed to have been incurred, and permitted to be incurred, under such clause (1) so long as the principal amount or the liquidation preference of such refinancing Indebtedness, Disqualified Stock or preferred stock does not exceed an amount equal to the principal amount or liquidation preference of Indebtedness, Disqualified Stock or preferred stock being refinanced plus Additional Refinancing Amounts in connection with such refinancing.

The amount of any Indebtedness outstanding as of any date will be:

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(1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;

(2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and

(3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:

(A) the Fair Market Value of such assets at the date of determination; and

(B) the amount of the Indebtedness of the other Person.

(h) Notwithstanding the foregoing, in no event shall any Unsecured Notes held by the Sponsor be exchanged, converted or otherwise redeemed, repaid or refinanced with Indebtedness secured by any collateral or guaranteed by any entities not otherwise securing or guaranteeing the Unsecured Notes (or with greater priority than any collateral securing the Unsecured Notes or Guarantees guaranteeing the Unsecured Notes) unless the same collateral or guarantee has been offered to all Holders.

Section 4.10 *Asset Sales.*

(a) The Issuer will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1) the Issuer (or the Restricted Subsidiary, as the case may be) receives consideration (including by way of relief from, or by any other person assuming responsibility for, any liabilities, contingent or otherwise) at the time of the Asset Sale at least equal to the Fair Market Value of the assets sold or otherwise disposed of; and

(2) 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 provision, each of the following will be deemed to be cash:

(A) any liabilities (other than liabilities that are by their terms subordinated to the Unsecured Notes or any Unsecured Note Guarantee) of the Issuer or such Restricted Subsidiary (as shown on the Issuer's or such Restricted Subsidiary's most recent consolidated balance sheet (or in the notes thereto) for which internal financial statements are available immediately preceding such date or, if incurred or accrued subsequent to the date of such balance sheet, such liabilities that would have been reflected on the Issuer's or such Restricted Subsidiary's balance sheet (or in the notes thereto) if such incurrence or accrual had taken place on or prior to the date of such balance sheet in the good faith determination of the Issuer) that are extinguished in connection with the transactions relating to such Asset Sale, or that are assumed by the transferee of any such assets, in each case pursuant to an agreement that releases the Issuer or such Restricted Subsidiary from or indemnifies against further liability;

(B) any securities, notes, other obligations or assets received by the Issuer or such Restricted Subsidiary from such transferee that are convertible by the Issuer or such Restricted Subsidiary into cash or Cash Equivalents, (to the extent of the cash or Cash Equivalents received in that conversion) within 180 days following the closing of the applicable Asset Sale;

(C) 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 Section

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4.10(a)(2)(C) that is at that time outstanding, not to exceed the greater of (x) \$50.0 million and (y) 15.0% of Consolidated EBITDA;

(D) consideration consisting of Indebtedness of the Issuer or such Restricted Subsidiary that is not Subordinated Indebtedness received from such transferee; and

(E) accounts receivable of a business retained by the Issuer or such Restricted Subsidiary, as the case may be, following the sale of such business; *provided* that such accounts receivable (1) are not past due more than 90 days and (2) do not have a payment date greater than 120 days from the date of the invoices creating such accounts receivable.

(b) Within 400 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 at its option:

(1) (i) to repay Secured Indebtedness of the Issuer or any Guarantor (including the Secured Notes and Obligations under the New ABL Credit Agreement) and, if the Secured Indebtedness being repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto or (ii) to repay any Indebtedness of a Restricted Subsidiary of the Issuer that is not a Guarantor (other than Indebtedness owed to the Issuer or another Restricted Subsidiary);

(2) to repay (i) (x) the Unsecured Notes or (y) unsecured Indebtedness or other unsecured Obligations of the Issuer, in each case, that rank *pari passu* with the Unsecured Notes or (ii) unsecured Indebtedness and other unsecured Obligations of a Guarantor that rank *pari passu* with such Guarantor's Unsecured Note Guarantee (other than Indebtedness owed to the Issuer or a Restricted Subsidiary of the Issuer); *provided* that if the Issuer (or the applicable Restricted Subsidiary) shall so reduce unsecured Indebtedness other than the Unsecured Notes, the Issuer shall equally and ratably redeem or repurchase the Unsecured Notes pursuant to Section 3.07 hereof, through open-market purchases or in privately negotiated transactions at market prices (which may be below par), or by making an offer (in accordance with the procedures in Section 4.10(c)) to all Holders to purchase the Unsecured Notes at 100% of the principal amount thereof, *plus* accrued and unpaid interest, if any, on the Unsecured Notes repurchased, to (but not including) the date of repayment;

(3) to acquire all or substantially all of the assets of, or any Capital Stock of, 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 or additional Capital Stock of an existing non-Wholly Owned Restricted Subsidiary;

(4) to make a capital expenditure;

(5) to make an investment in any one or more businesses or property, plant or equipment or acquire property, plant or equipment, in each case that are used or useful in a Permitted Business; *provided* that such investment is made in accordance with the provisions of this Indenture; or

(6) any combination of the foregoing.

Notwithstanding the foregoing, to the extent a distribution of any or all of the Net Proceeds of any Asset Sales by a Foreign Subsidiary to the Issuer or another Restricted Subsidiary (i) is (x) prohibited or delayed by applicable local law, (y) restricted by applicable organizational documents or any agreement or (z) subject to other organizational or administrative impediments from being repatriated to the United States or (ii) would have a material adverse tax consequence, as reasonably determined by the Issuer, the portion of such Net Proceeds so affected will not be required to be applied in compliance with this Section 4.10; *provided* that if at any time within one year following the date on which such affected Net Proceeds would otherwise have been required to be applied pursuant to this Section 4.10, distribution of any of such affected Net Proceeds is no longer prohibited or delayed by

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applicable local law, restricted by any applicable organizational document or agreement, subject to other organizational or administrative impediment from being repatriated to the United States, and would not result in a material adverse tax consequences, then an amount equal to such amount of Net Proceeds so permitted to be repatriated will be promptly applied (net of any taxes, costs or expenses that would be payable or reserved against if such amounts were actually repatriated, whether or not they are repatriated) in compliance with this Section 4.10. The non-application of any prepayment amounts as a consequence of the foregoing provisions shall not, for the avoidance of doubt, constitute a Default or an Event of Default. For the avoidance of doubt, nothing in this Indenture shall be construed to require the Issuer or any Foreign Subsidiary to repatriate cash or to apply any Net Proceeds described in clause (i) above in compliance with this Section 4.10 in the event that such repatriation is not permitted under applicable local law, applicable organizational documents or agreements or other impediment within one year following the date on which the respective payment would otherwise have been required.

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

(c) Any Net Proceeds that are not applied or invested as provided in Section 4.10(b) (but excluding for the avoidance of doubt any such proceeds not required to be applied or invested as a result of the fourth paragraph of this covenant) will constitute “*Excess Proceeds*”; *provided* that any amount of proceeds offered to holders in accordance with Section 4.10(b)(2) or pursuant to an Asset Sale Offer made at any time after the Asset Sale shall be deemed to have been applied as required and shall not be deemed to be Excess Proceeds without regard to the extent to which such offer is accepted by the holders. When the aggregate amount of Excess Proceeds exceeds the greater of (x) \$50.0 million and (y) 15.0% of Consolidated EBITDA, within 30 days thereof, the Issuer shall make an Asset Sale Offer to all Holders of the Unsecured Notes and all holders of Indebtedness of the Issuer or any Guarantor that ranks *pari passu* with the Unsecured Notes and contains provisions similar to those set forth in this Indenture with respect to offers to purchase, prepay or redeem with the proceeds of sales of assets, to purchase, prepay or redeem on a pro rata basis the maximum principal amount (or accreted value, if applicable) of Unsecured Notes and such other *pari passu* Indebtedness (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith) that may be purchased, prepaid or redeemed out of such Excess Proceeds at an offer price in an amount equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, to (but not including) the date of purchase, prepayment or redemption, subject to the rights of Holders of Unsecured Notes on a relevant record date to receive interest due on an Interest Payment Date occurring on or prior to the purchase date, and will be payable in cash. Any Asset Sale Offer will be made in accordance with the procedures set forth in this Indenture and the agreements governing such *pari passu* Indebtedness. The Issuer may satisfy the foregoing obligations with respect to such Excess Proceeds from an Asset Sale by making an Asset Sale Offer with respect to such Excess Proceeds at any time prior to the expiration of the application period or by electing to make an Asset Sale Offer with respect to such Excess Proceeds.

If any Excess Proceeds remain after consummation of an Asset Sale Offer (any such amount, “*Retained Declined Proceeds*”), the Issuer may use those Retained Declined Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Unsecured Notes and other *pari passu* Indebtedness tendered in (or required to be prepaid or redeemed in connection with) such Asset Sale Offer exceeds the amount of Excess Proceeds, the Issuer will select the Unsecured Notes and such other *pari passu* Indebtedness to be purchased on a pro rata basis, based on the principal amounts tendered or required to be prepaid or redeemed and thereafter the Trustee will select the Unsecured Notes to be purchased on a pro rata basis (subject to applicable DTC procedures with respect to the Global Notes) based on the principal amount tendered (with, in each case, such adjustments as may be deemed appropriate by the Issuer so that only Unsecured Notes in minimum denominations of \$2,000, or an integral multiple of \$1,000 in excess thereof, will be purchased; *provided* that any unpurchased portion of an Unsecured Note must be in a minimum denomination of \$2,000). Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

(d) The Issuer will 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

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each repurchase of Unsecured Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions of this Indenture, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of this Indenture by virtue of such compliance.

Section 4.11 *Transactions with Affiliates.*

(a) The Issuer will not, and will 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 involving aggregate payments or consideration in excess of the greater of (x) \$15.0 million and (y) 5.0% of Consolidated EBITDA (each, an “*Affiliate Transaction*”), unless:

(1) the Affiliate Transaction is on terms that are not materially less favorable, taken as a whole, 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 (as determined in good faith by the senior management or the Board of Directors of the Issuer or any direct or indirect parent of the Issuer);

(2) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of the greater of (x) \$25.0 million and (y) 7.5% of Consolidated EBITDA, the terms of the Affiliate Transaction have been approved by the Board of Directors of the Issuer or any direct or indirect parent of the Issuer or such Restricted Subsidiary, as applicable; and

(3) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of the greater of (x) \$50.0 million and (y) 15.0% of Consolidated EBITDA, either, at the Issuer’s option, (x) the Issuer must obtain and deliver to the Trustee a written opinion of an Independent Financial Advisor stating that the transaction is fair to the Issuer or such Restricted Subsidiary, as the case may be, from a financial point of view or (y) the transaction must be approved in good faith by a majority of the Disinterested Directors.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.11(a) hereof:

(1) any reasonable or customary employment agreement, consulting agreement, severance agreement, employee benefit plan, compensation arrangement, officer or director indemnification agreement or any similar arrangement entered into by, or policy of, the Issuer or any of its Restricted Subsidiaries and payments pursuant thereto;

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

(3) 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;

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(4) payment of fees and reimbursements of expenses (pursuant to indemnity arrangements or otherwise) of officers, directors, employees, independent contractors or consultants of the Issuer or any of its Restricted Subsidiaries or any direct or indirect parent of the Issuer;

(5) any sale, issuance or transfer of Equity Interests (other than Disqualified Stock) of the Issuer or any direct or indirect parent company of the Issuer to Affiliates of the Issuer and the granting of registration and other customary rights in connection therewith, and the performance by the Issuer or any of its Restricted Subsidiaries of its obligations with respect thereto;

(6) (a) Restricted Payments that do not violate Section 4.07 hereof and (b) Permitted Investments (including fees and expenses related thereto);

(7) the performance by the Issuer and its Restricted Subsidiaries of their respective obligations under, or payments in respect of, the Acquisition Agreement, the Advisory Agreement, limited liability company, limited partnership or other constitutive document or security holders agreement or other agreements disclosed in the Offering Memorandum under "Certain Relationships and Related Party Transactions," each as in effect within 30 days of the Acquisition Date, and the payment of fees and expenses not in excess of the amounts specified in, or determined pursuant to, such agreements, as in effect within 30 days of the Acquisition Date; *provided, however*, that (A) the existence of, or the performance by the Issuer and its Restricted Subsidiaries of their respective obligations under, any future amendment to any such existing agreement or under any similar agreement entered into after the Acquisition Date shall only be permitted by this clause (7) to the extent that the terms of any such existing agreement together with all amendments thereto, taken as a whole, or new agreement are not otherwise more disadvantageous (as determined in good faith by the senior management or the Board of Directors of the Issuer or any direct or indirect parent of the Issuer) to the Holders of the Unsecured Notes in any material respect than the original agreement as in effect within 30 days of the Acquisition Date and (B) payments under the Advisory Agreement shall not exceed \$10.0 million in the aggregate in any fiscal year;

(8) if such Affiliate Transaction is with a Person in its capacity as a holder of Indebtedness, Disqualified Stock, preferred stock or Capital Stock of the Issuer or any Restricted Subsidiary of the Issuer where such Person is treated no more favorably than the other holders of Indebtedness, Disqualified Stock, preferred stock or Capital Stock of the Issuer or any Restricted Subsidiary of the Issuer;

(9) transactions with an Affiliate where the only consideration paid is Qualifying Equity Interests of the Issuer;

(10) transactions in which the Issuer or any of its Restricted Subsidiaries, as the case may be, deliver to the Trustee a letter from an Independent Financial Advisor stating that such transaction (i) is fair to the Issuer or such Restricted Subsidiary from a financial point of view or (ii) meets the requirements of Section 4.11(a)(1) hereof;

(11) payments, loans, advances or guarantees (or cancellation of loans, advances or guarantees) to employees, officers, directors, consultants or independent contractors of the Issuer or any of its Restricted Subsidiaries or any direct or indirect parent of the Issuer in the ordinary course of business;

(12) any agreement as in effect as of the Acquisition Date or any amendment thereto (so long as any such agreement together with all amendments thereto, taken as a whole, is not more disadvantageous in any material respect (as determined in good faith by the senior management or the Board of Directors of the Issuer or any direct or indirect parent of the Issuer) to the Holders of the Unsecured Notes in any material respect than the original agreement as in effect on the Acquisition Date) or any transaction contemplated thereby;

(13) transactions with joint ventures entered into in the ordinary course of business;

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(14) any contributions to the common equity capital of the Issuer or any investments by the Principals or a direct or indirect parent of the Issuer in Equity Interests (other than Disqualified Stock of the Issuer) of the Issuer (and payment of reasonable out-of-pocket expenses incurred by the Principals or a direct or indirect parent of the Issuer in connection therewith);

(15) (x) guarantees of performance by the Issuer and its Restricted Subsidiaries of Unrestricted Subsidiaries in the ordinary course of business, except for guarantees of Indebtedness in respect of borrowed money, and (y) pledges of Equity Interests of Unrestricted Subsidiaries;

(16) any issuance 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 of the Issuer, or of a Restricted Subsidiary of the Issuer, as appropriate, in good faith;

(17) the entry into any tax-sharing arrangements between the Issuer or any of its Restricted Subsidiaries and any of their direct or indirect parents; *provided, however*, that any payment made by the Issuer or any of its Restricted Subsidiaries under such tax-sharing arrangements is, at the time made, otherwise permitted by Section 4.07 hereof;

(18) transactions with Unrestricted Subsidiaries, customers, clients, lessors, landlords, suppliers, contractors, or purchasers or sellers of goods or services that are Affiliates, 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 and its Restricted Subsidiaries, or made in the reasonable determination of senior management or the Board of Directors of the Issuer or any direct or indirect parent of the Issuer;

(19) transactions between the Issuer or any of its Restricted Subsidiaries and any Person who is a director and who is also a director of the Issuer or any direct or indirect parent of the Issuer; *provided, however*, that such director abstains from voting as a director of the Issuer or such direct or indirect parent, as the case may be, on any matter involving such other Person;

(20) payments by the Issuer or any of its Restricted Subsidiaries to or on behalf of the Principals for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with the acquisitions or divestitures, which payments are approved in good faith by a majority of the Board of Directors of the Issuer or any direct or indirect parent of the Issuer;

(21) [reserved];

(22) transactions pursuant to, and complying with Section 5.01(b) hereof; and

(23) the Transactions and the payment of any fees or expenses related thereto or to fund amounts owed to Affiliates in connection therewith (including dividends, payments or loans made to any direct or indirect parent of the Issuer to fund payment of any such fees or expenses).

Section 4.12 *Liens.*

(a) The Issuer will not, and will not permit any of its Restricted Subsidiaries that are Guarantors, if any, to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind (other than Permitted Liens), securing Indebtedness of the Issuer or its Restricted Subsidiaries that are Guarantors, if any, on any property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom, unless in each case:

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(1) in the case of Liens securing Subordinated Indebtedness, the Unsecured Notes are secured by a Lien on such property, assets or proceeds that is senior in priority to such Liens; or

(2) in all other cases, the Unsecured Notes are equally and ratably secured.

(b) Any Lien created for the benefit of the Holders of the Unsecured Notes pursuant to this Section 4.12 shall be deemed automatically and unconditionally released and discharged upon (i) the release of the Lien that gave rise to the obligation to secure the Unsecured Notes, (ii) in the case of any such Lien in favor of any Unsecured Note Guarantee, the termination and discharge of such Unsecured Note Guarantee in accordance with the terms of this Indenture or (iii) any sale, exchange or transfer (other than a transfer constituting a transfer of all or substantially all of the assets of the Issuer that is governed by Section 5.01 hereof) to any Person not an Affiliate of the Issuer of the property or assets secured by such Lien, or of all of the Capital Stock held by the Issuer or any of its Restricted Subsidiaries in, or all or substantially all the assets of, any Restricted Subsidiary creating such Lien.

(c) For purposes of determining compliance with this Section 4.12, (A) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of Permitted Liens described in the definition of "Permitted Liens" or pursuant to Section 4.12(a) hereof but may be permitted in part under any combination thereof and (B) in the event that a Lien securing an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of Permitted Liens described in the definition of "Permitted Liens" or pursuant to Section 4.12(a) hereof, the Issuer shall, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Lien securing each item of Indebtedness (or any portion thereof) in any manner that complies with Section 4.12 and will only be required to include the amount and type of such Lien or such item of Indebtedness secured by such Lien in one of the clauses of the definition of "Permitted Liens" and such Lien securing such item of Indebtedness will be treated as being incurred or existing pursuant to only one of such clauses or pursuant to Section 4.12(a) hereof.

(d) With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the incurrence thereof, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness.

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:

(1) its corporate or other 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

(2) the rights (charter and statutory), licenses and franchises of the Issuer and its Subsidiaries; *provided, however,* 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 the Issuer's Subsidiaries, if the Board of Directors of the Issuer 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) If a Change of Control occurs after the Acquisition Date, each Holder of Unsecured Notes will have the right to require the Issuer to repurchase all or any portion (equal to a minimum denomination of \$2,000 or an integral multiple of \$1,000 in excess thereof) of that Holder's Unsecured Notes pursuant to an offer (a "*Change of Control Offer*") on the terms set forth in this Indenture; *provided* that any unpurchased portion of an Unsecured Note must be in a minimum denomination of \$2,000. In the Change of Control Offer, the Issuer will offer a payment (the "*Change of Control Payment*") in cash equal to 101% of the aggregate principal amount of Unsecured

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Notes repurchased, *plus* accrued and unpaid interest, if any, on the Unsecured Notes repurchased to (but not including) the date of purchase (the “*Change of Control Payment Date*”), subject to the rights of Holders of Unsecured Notes on a relevant record date to receive interest due on an Interest Payment Date occurring on or prior to the Change of Control Payment Date. Prior to or within 30 days following any Change of Control, except to the extent the Issuer has delivered notice to the Trustee of its intention to redeem Unsecured Notes pursuant to Section 3.07 hereof, the Issuer will mail (or with respect to Global Notes to the extent permitted or required by applicable DTC procedures or regulations, send electronically) a notice to each Holder, with a copy to the Trustee, describing the transaction or transactions that constitute, or are expected to constitute, the Change of Control and stating:

- (1) that the Change of Control Offer is being made pursuant to this Section 4.14 and that all Unsecured Notes tendered will be accepted for payment;
- (2) the Change of Control Payment and the Change of Control Payment Date, which date shall be no earlier than 10 days and no later than 90 days (unless delivered in advance of the occurrence of such Change of Control) from the date such notice is mailed or sent, pursuant to the procedures required by this Indenture;
- (3) that any Unsecured Note not tendered will continue to accrue interest;
- (4) that, unless the Issuer defaults in the payment of the Change of Control Payment, all Unsecured Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest after the Change of Control Payment Date (whether or not a Business Day);
- (5) that Holders electing to have any Unsecured Notes purchased pursuant to a Change of Control Offer will be required to surrender the Unsecured Notes, with the form entitled “Option of Holder to Elect Purchase” attached to the Unsecured Notes completed, or transfer by book-entry transfer, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;
- (6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Unsecured Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have the Unsecured Notes purchased; and
- (7) that Holders whose Unsecured Notes are being purchased only in part will be issued new Unsecured Notes equal in principal amount to the unpurchased portion of the Unsecured Notes surrendered (or transferred by book entry), which unpurchased portion must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof.

If such notice is delivered prior to the occurrence of a Change of Control, such notice shall state that the Change of Control Offer is conditioned upon the occurrence of such Change of Control and shall describe such condition, and, if applicable, shall state that, in the Issuer’s sole discretion, the Change of Control Payment Date may be delayed until such time (including more than 90 days after the notice is mailed or delivered, including by electronic transmission) as any or all such conditions shall be satisfied, or that such repurchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the Change of Control Payment Date, or by the Change of Control Payment Date as so delayed. The Issuer will 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 the repurchase of the Unsecured Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4.14, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.14 by virtue of such compliance.

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(b) On the Change of Control Payment Date, the Issuer will, to the extent lawful:

(1) accept for payment all Unsecured Notes or portions of Unsecured Notes properly tendered pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Unsecured Notes or portions of Unsecured Notes properly tendered; and

(3) deliver or cause to be delivered to the Trustee the Unsecured Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Unsecured Notes or portions of Unsecured Notes being purchased by the Issuer.

The Paying Agent will promptly deliver to each Holder of Unsecured Notes properly tendered the Change of Control Payment for such Unsecured Notes, and the Trustee will promptly, upon receipt of an Authentication Order, together with the documents required under Sections 13.02 and 13.03 hereof, authenticate and mail (or cause to be transferred by book entry) to each Holder a new Unsecured Note equal in principal amount to any unpurchased portion of the Unsecured Notes surrendered, if any. The Issuer will announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(c) Notwithstanding anything to the contrary in this Section 4.14, the Issuer will not be required to make a Change of Control Offer upon a Change of Control if (1) 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 Section 4.14 and purchases all Unsecured Notes properly tendered and not withdrawn under the Change of Control Offer, (2) in connection with or in contemplation of any Change of Control, the Issuer (or any Affiliate of the Issuer) or a third party has made an offer to purchase at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer (an "*Alternate Offer*") any and all Unsecured Notes validly tendered at a cash price equal to or higher than the Change of Control Payment and has purchased all Unsecured Notes properly tendered in accordance with the terms of the Alternate Offer, or (3) notice of redemption pursuant to Section 3.07 hereof has been given to the Trustee, unless and until there is a default in payment of the applicable redemption price.

(d) Notwithstanding anything to the contrary contained herein, a Change of Control Offer or Alternate Offer may be made in advance of a Change of Control, and/or conditioned upon the consummation of such Change of Control.

(e) The Issuer's obligation to make a Change of Control Offer may be waived or modified or terminated with the written consent of the Holders of a majority in aggregate principal amount of the Unsecured Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Unsecured Notes).

Section 4.15 *[Reserved]*.

Section 4.16 *Future Guarantees*.

If, after the Acquisition Date, (a) any Wholly Owned Domestic Subsidiary of the Issuer (including any newly formed, newly acquired or newly redesignated Restricted Subsidiary, but excluding any Excluded Subsidiary) that is not then a Guarantor (i) guarantees or incurs any Indebtedness under any Indebtedness under any Credit Agreement incurred pursuant to Section 4.09(b)(1) or (ii) guarantees any other capital markets Indebtedness incurred or guaranteed by the Issuer or a Guarantor with an aggregate principal amount of at least the greater of (x) \$100.0 million and (y) 30.0% of Consolidated EBITDA or (b) the Issuer otherwise elects to have any Restricted Subsidiary become a Guarantor, then, in each such case, the Issuer shall cause such Restricted Subsidiary to execute and deliver to the Trustee a supplemental indenture to this Indenture pursuant to which such Restricted Subsidiary shall become a Guarantor hereunder providing for an Unsecured Note Guarantee by such Restricted Subsidiary on the same terms

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and conditions as those set forth herein and applicable to the other Guarantors; *provided* that in the case of clause (a), such supplemental indenture shall be executed and delivered to the Trustee within 20 Business Days of the date that such Indebtedness has been guaranteed or incurred by such Restricted Subsidiary.

Each Unsecured Note Guarantee shall be released upon the terms and in accordance with the provisions of Article 10 hereof.

Section 4.17 *Designation of Restricted Subsidiaries and Unrestricted Subsidiaries.*

After the Acquisition Date, the Board of Directors of the Issuer or any direct or indirect parent of the Issuer may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if (i) that designation would not cause a Default and (ii) after giving *pro forma* effect thereto, the Issuer would be permitted to incur at least \$1.00 of additional Indebtedness as Ratio Debt. If such Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments in such Restricted Subsidiary by the Issuer and its Restricted Subsidiaries will be deemed to be an Investment made as of the time of determination or the designation and will reduce the amount available for Restricted Payments under Section 4.07 hereof 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 such Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

Any designation of a Restricted 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 of the Issuer or any direct or indirect parent of the Issuer 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 hereof or under one of more clauses of the definition of "Permitted Investments." 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 as of such date and, if such Indebtedness is not permitted to be incurred as of such date pursuant to Section 4.09 hereof, the Issuer will be in default of Section 4.09 hereof. The Board of Directors of the Issuer or any direct or indirect parent of the Issuer may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted by Section 4.09 hereof, calculated on a Pro Forma Basis as if such designation had occurred at the beginning of the applicable reference period; and (2) no Event of Default would be in existence following such designation. Any designation of an Unrestricted Subsidiary as a Restricted Subsidiary shall be evidenced to the Trustee by an Officer's Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.09 hereof.

Section 4.18 *Limitations on Activities Prior to the Escrow Release.*

(a) Prior to the Acquisition Date, the Initial Issuer shall not take any action or conduct any activity other than: (i) issuing the Unsecured Notes and the Secured Notes, issuing Equity Interests to, and receiving capital contributions from direct and indirect parent companies of the Initial Issuer, (ii) performing its obligations in respect of the Secured Notes under the Secured Notes Indentures and the Escrow Agreement and performing its obligations in respect of the Unsecured Notes under this Indenture and the Escrow Agreement, (iii) performing its obligations under the Acquisition Agreement, (iv) consummating the Initial Issuer Merger and the Escrow Release and redeeming the Unsecured Notes and the Secured Notes, if applicable, and (v) conducting such other activities as are necessary, advisable or appropriate to carry out the activities described in the foregoing (i) through (v) of this Section 4.18(a) or related to the Transactions. Prior to the Acquisition Date, the Initial Issuer shall not own, hold or otherwise have any interest in any assets other than the Escrow Account and each of the escrow accounts holding the proceeds of the applicable series of Secured Notes, cash and Cash Equivalents and its rights under the Acquisition Agreement pursuant to which the Acquisition is to be consummated, the Unsecured Notes and this Indenture and the Secured Notes and the Secured Notes Indentures.

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(b) Prior to the Acquisition Date, the Initial Issuer shall not engage in any activity or enter into any transaction or agreement (including, without limitation, making any restricted payment, incurring any debt (except the Unsecured Notes and the Secured Notes), incurring any Liens except in favor of the Escrow Agent, Trustee, the holders of the Unsecured Notes and/or the holders of the Secured Notes, entering into any merger (other than the Initial Issuer Merger), consolidation or sale of all or substantially all of its assets or engaging in any transaction with its Affiliates) except in the ordinary course of business or as necessary, advisable or appropriate to effectuate the Acquisition and the Transactions substantially in accordance with the description of the Transactions set forth in the Offering Memorandum, together with such amendments, modifications and waivers that are not, individually or in the aggregate, materially adverse (after giving effect to the consummation of the Acquisition and the Reorganization) to the Holders.

Section 4.19 *Changes in Covenants When Unsecured Notes Rated Investment Grade.*

If on any date following the Acquisition Date:

- (1) the Unsecured Notes have Investment Grade Ratings from both of the Ratings Agencies;
and
- (2) no Default or Event of Default shall have occurred and be continuing,

then, beginning on that day and continuing at all times thereafter and subject to the provisions of the second succeeding paragraph, (i) the Unsecured Note Guarantees will be automatically and unconditionally released and discharged and (ii) Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.16, 4.17 and 5.01(4) hereof (collectively, the “*Suspended Covenants*”) will be suspended.

During any period that the Suspended Covenants have been suspended, the Issuer’s Board of Directors may not designate any of its Subsidiaries as Unrestricted Subsidiaries pursuant to Section 4.17 hereof unless the Issuer’s Board of Directors would have been able, under the terms of this Indenture, to designate such Subsidiaries as Unrestricted Subsidiaries if the Suspended Covenants were not suspended. Notwithstanding that the Suspended Covenants may be reinstated, the failure to comply with the Suspended Covenants during the Suspension Period (including any action taken or omitted to be taken with respect thereto and including any actions taken at any time pursuant to any contractual obligations arising during the Suspension Period) will not give rise to a Default or Event of Default under this Indenture.

Notwithstanding the foregoing, if the Unsecured Notes no longer have an Investment Grade Rating from both of the Ratings Agencies, the Suspended Covenants will be reinstituted as of and from the date of such rating decline (any such date, a “*Reversion Date*”). The period of time between the suspension of covenants as set forth above and the Reversion Date is referred to as the “*Suspension Period*.” All Indebtedness incurred (including Acquired Debt) and Disqualified Stock or preferred stock issued during the Suspension Period will be deemed to have been incurred or issued in reliance on the exception provided by clause (2) of the definition of “Permitted Debt.” Calculations under the reinstated Section 4.07 will be made as if Section 4.07 had been in effect prior to, but not during, the period that Section 4.07 was suspended as set forth above. For purposes of determining compliance with Section 4.10 hereof, the Excess Proceeds from all Asset Sales not applied in accordance with Section 4.10 hereof, will be deemed to be reset to zero after the Reversion Date. In addition, for purposes of Section 4.11 hereof, all agreements and arrangements entered into by the Issuer and any Restricted Subsidiary with an Affiliate of the Issuer during the Suspension Period prior to such Reversion Date will be deemed to have been entered pursuant to Section 4.11(b)(12), and for purposes of Section 4.08 hereof, all contracts entered into during the Suspension Period prior to such Reversion Date that contain any of the restrictions contemplated by such covenant will be deemed to have been entered pursuant to Section 4.08(b)(1) hereof.

During the Suspension Period, any reference in the definition of “Unrestricted Subsidiary” to Section 4.09 hereof or any provision thereof shall be construed as if such Section 4.09 had remained in effect since the Issue Date and during the Suspension Period.

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Upon the Reversion Date, the obligation to grant Unsecured Note Guarantees pursuant to Section 4.16 hereof will be reinstated (and the Reversion Date will be deemed to be the date on which any guaranteed Indebtedness was incurred for purposes of Section 4.16 hereof).

Notwithstanding that the Suspended Covenants may be reinstated, no Default or Event of Default will be deemed to have occurred as a result of any failure to comply with the Suspended Covenants during any Suspension Period and the Issuer and its Restricted Subsidiaries will be permitted, without causing a Default or Event of Default or breach of any of the Suspended Covenants (notwithstanding the reinstatement thereof) under this Indenture, to honor, comply with or otherwise perform any contractual commitments or obligations following a Reversion Date and to consummate the transactions contemplated thereby; *provided* that such contractual commitments or obligations were entered into during the Suspension Period and not in contemplation of a reversion of the Suspended Covenants; *provided, further*, that, to the extent any such commitment or obligation results in the making of a Restricted Payment, such Restricted Payment shall be made under Section 4.07(a)(z) or Section 4.07(b) hereof and, if not permitted by any of such provisions, such Restricted Payment shall be deemed permitted under Section 4.07(a)(z) hereof and shall be deducted for purposes of calculating the amount pursuant to this Section 4.07(a)(z) (which may not be less than zero).

The Issuer shall provide an Officer's Certificate to the Trustee indicating the occurrence of any Suspension Period or Reversion Date. The Trustee shall have no obligation to monitor the ratings of the Unsecured Notes, independently determine or verify if such events have occurred or notify the Holders of Unsecured Notes of any Suspension Period or Reversion Date. The Trustee may provide a copy of such Officer's Certificate to any Holder of Unsecured Notes upon written request.

Section 4.20 *Post-Closing Covenant.*

(a) Within 90 days from the Acquisition Date, the Trustee shall have received, on behalf of itself and the Holders (i) a counterpart from each U.K. Guarantor of a supplemental indenture substantially in the form attached as Exhibit D hereto, (ii) a favorable written opinion of Willkie Farr & Gallagher (UK) LLP, England and Wales counsel for the U.K. Guarantors and (iii) []¹.

Section 4.21 *Maintenance of Listing.*

The Issuer will use its commercially reasonable efforts to, subject to notice of issuance, have the Unsecured Notes be admitted to listing on the Official List of The International Stock Exchange as soon as reasonably practicable following the Issue Date. In no event will this covenant require the Issuer to obtain the listing of the Unsecured Notes on any exchange that requires financial reporting for any fiscal period in addition to the fiscal periods required by the Commission. The Trustee shall have no obligation to monitor whether listing has been obtained or to determine whether commercially reasonable efforts have been made.

Section 4.22 *[Reserved].*

Section 4.23 *[Reserved].*

Section 4.24 *[Reserved].*

Section 4.25 *Additional Amounts.*

(a) All payments made under or with respect to the Unsecured Notes or the Unsecured Note Guarantees will be made free and clear of and without deduction for, or on account of, any present or future taxes unless the withholding or deduction of such taxes is then required by applicable law. If any deduction or withholding

¹ To be updated based on input from U.K. counsel.

for, or on account of, any taxes imposed or levied by or on behalf of any jurisdiction in which the Issuer or any Guarantor (including any successor entities) is then incorporated, engaged in business (directly or indirectly) or resident for tax purposes, or any political subdivision thereof or therein or any jurisdiction from or through which payment is made (each, a “*Tax Jurisdiction*”), will at any time be required to be made from, any payments made under or with respect to the Unsecured Notes or any Unsecured Note Guarantee, including, without limitation, payments of principal, redemption price, purchase price, interest or premium, the Issuer or the Guarantor will be entitled to make such deduction or withholding and will timely pay the full amount deducted or withheld to the relevant governmental authority in accordance with applicable law and will pay such additional amounts (the “*Additional Amounts*”) as may be necessary in order that the net amounts received and retained in respect of such payments by each Holder or Beneficial Owner of the Unsecured Notes (including *Additional Amounts*) after such withholding, deduction or imposition will be equal to the respective amounts that would have been received and retained in respect of such payments in the absence of such withholding, deduction or imposition; *provided, however*, that no *Additional Amounts* will be payable with respect to:

(1) any taxes that would not have been imposed but for the Holder or the Beneficial Owner of the Unsecured Notes being a citizen or resident or national of, or incorporated in or carrying on a business in, or having any other connection with, the relevant Tax Jurisdiction in which such taxes are imposed other than by the mere acquisition, holding or disposition of the Unsecured Notes or any Unsecured Note Guarantee or enforcement or exercise of rights thereunder or the receipt of payments in respect thereof;

(2) any taxes that are imposed or withheld as a result of the failure of the Holder or Beneficial Owner of the Unsecured Notes to comply with any reasonable written request, made to the Holder or Beneficial Owner in writing at least 60 days before any such withholding or deduction would be payable, by the Issuer to provide timely or accurate information concerning the nationality, residence or identity of such Holder or Beneficial Owner or to make any valid and timely declaration or similar claim or satisfy any certification information or other reporting requirement (to the extent such Holder or Beneficial Owner is legally entitled to do so), which is required or imposed by a statute, treaty, regulation or administrative practice of the relevant Tax Jurisdiction as a precondition to exemption from all or part of such taxes;

(3) any taxes imposed or withheld as a result of any Unsecured Note being presented for payment (where presentation is required) more than 30 days after the relevant payment is first made available for payment to the Holder (except to the extent that the Holder would have been entitled to *Additional Amounts* had the Unsecured Note been presented on the last day of such 30-day period);

(4) any estate, inheritance, gift, sale, transfer, personal property or similar tax or assessment;

(5) any taxes payable other than by deduction or withholding from payments under, or with respect to, the Unsecured Notes;

(6) any taxes imposed on or with respect to any payment by the Issuer to the Holder if such Holder is a fiduciary of a Beneficial Owner or any person other than the sole beneficial owner of such payment to the extent that taxes would not have been imposed on such payment had such Beneficial Owner been the Holder of such Unsecured Note;

(7) any taxes withheld or deducted pursuant to an agreement described in Section 1471(b) of the Code, or otherwise pursuant to Sections 1471 through 1474 of the Code (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or agreements thereunder, official interpretations thereof, or any law implementing an intergovernmental approach thereto (collectively, “*FATCA*”), except to the extent that such taxes result from a failure of any paying agent to comply with *FATCA*; or

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(8) any combination of Section 4.25(a)(1) through (7).

(b) In addition to Section 4.25(a), the Issuer and the Guarantors will also pay and indemnify each of the Holders and the Trustee for any present or future stamp, issue, registration, transfer, court or documentary taxes, or any other excise or property taxes, charges or similar levies or taxes that are levied by any jurisdiction on the issuance, execution, delivery, registration or enforcement of any of the Unsecured Notes, any Unsecured Note Guarantee or any other document or instrument referred to therein, or to the receipt of any payments with respect thereto.

(c) If the Issuer or any Guarantor becomes aware that it will be obligated to pay Additional Amounts with respect to any payment under or with respect to the Unsecured Notes, the Issuer or the applicable Guarantor will deliver to the Trustee on a date that is at least 30 days prior to the date of that payment (unless the obligation to pay Additional Amounts arises after the 30th day prior to that payment date, in which case the Issuer or the applicable Guarantor shall notify the Trustee in writing promptly thereafter) an Officer's Certificate stating the fact that Additional Amounts will be payable and the amount estimated to be so payable. The Officer's Certificate must also set forth any other information reasonably necessary to enable the paying agent to pay Additional Amounts on the relevant payment date. The Trustee will be entitled to rely solely on such Officer's Certificate as conclusive proof that such payments are necessary. The Issuer or the applicable Guarantor will provide the Trustee with documentation reasonably satisfactory to the Trustee evidencing the payment of Additional Amounts.

(d) The Issuer or the applicable Guarantor will make all withholdings and deductions required by law and will remit the full amount deducted or withheld to the relevant tax authority in accordance with applicable law. The Issuer or the applicable Guarantor will use its reasonable efforts to obtain tax receipts from each tax authority evidencing the payment of any taxes so deducted or withheld. The Issuer or the applicable Guarantor will furnish to the Trustee, within a reasonable time after the date the payment of any taxes so deducted or withheld is made, certified copies of tax receipts evidencing payment by the Issuer or the applicable Guarantor or if, notwithstanding the use of reasonable efforts to obtain receipts, receipts are not obtained, other evidence of payments. The Issuer or the applicable Guarantor shall attach to each certified copy or other evidence, as applicable, a certificate stating (x) that the amount of tax evidenced by the certified copy was paid in connection with payments under or with respect to the Unsecured Notes or Unsecured Note Guarantees then outstanding upon which such taxes were due and (y) the amount of such withholding tax paid per \$1,000 of principal amount of the Unsecured Notes.

(e) Whenever, in any context, any payment of amounts based upon the principal amount of the Unsecured Notes or of principal, interest or of any other amount payable under, or with respect to, any of the Unsecured Notes or Unsecured Note Guarantees is mentioned in this Indenture, such mention shall be deemed to include mention of the payment of Additional Amounts to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

(f) The obligations of this Section 4.25 will survive any termination, defeasance or discharge of the this Indenture, any transfer by a Holder or beneficial owner of its Unsecured Notes and will apply, *mutatis mutandis*, to any successor person to the Issuer or any Guarantor.

ARTICLE 5 SUCCESSORS

Section 5.01 *Merger, Consolidation or Sale of Assets.*

(a) The Issuer will not, directly or indirectly: (1) consolidate or merge with or into another Person, (2) consummate a Division as the Dividing Person (whether or not the Issuer is the surviving entity) or (3) sell, assign, transfer, convey, lease 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 (other than in connection with the Transactions), unless:

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(1) either: (a) the Issuer is the surviving Person; or (b) the Person formed by or surviving any such consolidation, merger or Division (if other than the Issuer) or to which such sale, assignment, transfer, conveyance, lease or other disposition has been made is an entity organized or existing under the laws of the United States, any state of the United States or the District of Columbia (such Person, the “*Surviving Entity*”) and, if such entity is not a corporation, a co-obligor of the Notes is a corporation organized or existing under any such laws;

(2) the Surviving Entity (if other than the Issuer) or the Person to which such sale, assignment, transfer, conveyance, lease or other disposition has been made assumes all the obligations of the Issuer under the Unsecured Notes and this Indenture, pursuant to a supplemental indenture;

(3) immediately after such transaction, no Default or Event of Default exists;

(4) the Issuer or the Surviving Entity would, after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, (a) be permitted to incur at least \$1.00 of additional Indebtedness as Ratio Debt, (b) have had a Fixed Charge Coverage Ratio equal to or greater than the actual Fixed Charge Coverage Ratio for the Issuer for such four-quarter period or (c) have had a Consolidated Total Debt Ratio equal to or less than such ratio for the Issuer for such four-quarter period; and

(5) the Surviving Entity (if other than the Issuer) shall deliver, or cause to be delivered, to the Trustee an Officer’s Certificate and an Opinion of Counsel, each to the effect that such consolidation, merger, Division, sale, conveyance, assignment, transfer, lease or other disposition complies with the requirements of this Indenture;

(b) Section 5.01(a) will not apply to any sale, assignment, transfer, conveyance, lease, Division or other disposition of assets between or among the Issuer and any Guarantor. Clauses (3) and (4) of Section 5.01(a) will not apply to (a) any merger, consolidation or amalgamation of any Restricted Subsidiary with or into the Issuer, (b) any consolidation, amalgamation or merger of the Issuer into, or sale, assignment, transfer, lease, conveyance or other disposition of all or part of the properties and assets of the Issuer to, any Guarantor, (c) a merger, consolidation or amalgamation of the Issuer with or into an Affiliate for the purpose of reincorporating the Issuer in another jurisdiction so long as the amount of Indebtedness of the Issuer and its Restricted Subsidiaries is not increased thereby or (d) the conversion of the Issuer or a Restricted Subsidiary into a corporation, partnership, limited partnership, limited liability company or trust, organized or existing under the laws of the United States, any state or territory thereof or the District of Columbia. In addition, the Issuer or any Restricted Subsidiary may change its name.

(c) For the avoidance of doubt, the Initial Issuer Merger may occur without compliance with this Section 5.01(a). The Ultimate Issuer will provide written notice to the Trustee upon consummation of the Initial Issuer Merger.

Section 5.02 *Successor Corporation Substituted.*

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance, Division or other disposition of all or substantially all of the properties or assets of the Issuer in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof, (a) the successor Person formed by such consolidation or into or with which the Issuer is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition or Division is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, lease, conveyance, Division or other disposition, the provisions of this Indenture referring to the “Issuer” shall refer instead to the successor Person and not to the Issuer), and may exercise every right and power of the Issuer under this Indenture with the same effect as if such successor Person had been named as the Issuer herein; and (b) the Issuer or such predecessor Person, as the case may be, (except in the case of a lease) shall be released from its obligations under this Indenture and the Unsecured Notes.

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ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01 *Events of Default.*

Each of the following is an “*Event of Default*”:

- (1) default for 30 days in the payment when due of interest on the Unsecured Notes;
- (2) default in the payment when due (at maturity, upon redemption, offer to purchase or otherwise) of the principal of, or premium, if any, on, the Unsecured Notes;
- (3) failure by the Issuer or any of its Restricted Subsidiaries for 60 days after notice by the Trustee to the Issuer or by the Holders of at least 30% in aggregate principal amount of the Unsecured Notes then outstanding to the Issuer and the Trustee to comply with any of the agreements in this Indenture (other than a default referred to in clause (1) or (2) of this Section 6.01); *provided* that in the case of a failure to comply with Section 4.03 hereof, such period of continuance of such default or breach shall be 120 days after written notice described in this clause (3) has been given;
- (4) 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 borrowed money (other than Indebtedness owed to the Issuer or any of its Restricted Subsidiaries or any Affiliate) of the Issuer or any of the Issuer’s Restricted Subsidiaries that is a Significant Subsidiary (or the payment of which is guaranteed by the Issuer or any of the Issuer’s Restricted Subsidiaries that is a Significant Subsidiary), whether such Indebtedness or Guarantee now exists, or is created after the Issue Date, if that default:
 - (a) is caused by a failure to pay principal of, or premium, if any, on any such Indebtedness at final Stated Maturity (after giving effect to any applicable grace periods) (a “*Payment Default*”); or
 - (b) 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 at least the greater of (x) \$100.0 million and (y) 30.0% of Consolidated EBITDA;
- (5) failure by the Issuer or any of the Issuer’s Restricted Subsidiaries that is a Significant Subsidiary to pay final non-appealable judgments entered by a court or courts of competent jurisdiction aggregating in excess of the greater of (x) \$100.0 million and (y) 30.0% of Consolidated EBITDA (other than any judgments covered by indemnities or insurance policies issued by reputable companies), which judgments are not paid, discharged or stayed, for a period of 60 days, after the applicable judgment becomes final and non-appealable;
- (6) the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Code:

[LISTNUM \l 5] commences a voluntary case,

[LISTNUM \l 5] consents to the entry of an order for relief against it in an involuntary case,

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[LISTNUM \l 5] consents to the appointment of a custodian of it or for all or substantially all of its property,

[LISTNUM \l 5] makes a general assignment for the benefit of its creditors, or

[LISTNUM \l 5] admits in writing its inability to pay its debts as they become due;

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

[LISTNUM \l 5] is for relief against the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary in an involuntary case;

[LISTNUM \l 5] appoints a custodian of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary; or

[LISTNUM \l 5] orders the liquidation of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days;

(8) except as permitted by this Indenture, any Unsecured Note Guarantee of a Significant Subsidiary of the Issuer is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect (except as contemplated by the terms of this Indenture), or any Significant Subsidiary of the Issuer, or any Person acting on behalf of such Significant Subsidiary of the Issuer, denies or disaffirms its obligations under its Unsecured Note Guarantee and any such Default continues for 10 days; or

(9) failure by the Issuer to consummate the Special Mandatory Redemption as described under Section 14.02.

Section 6.02 *Acceleration.*

In the case of an Event of Default specified in clause (6) or (7) of Section 6.01 hereof, with respect to either 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 Unsecured 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 Unsecured Notes by notice to the Issuer (with a copy to the Trustee if given by Holders of Unsecured Notes) may declare all the Unsecured Notes to be due and payable immediately.

The Holders of a majority in aggregate principal amount of the then outstanding Unsecured Notes by written notice to the Trustee may, on behalf of all of the Holders of all the Unsecured Notes, rescind an acceleration and its consequences under this Indenture, if the rescission would not conflict with any judgment or decree, except a continuing Default or Event of Default in the payment of principal of, premium on, if any, or interest, if any, on, the Unsecured Notes (except nonpayment of principal, premium, if any, or interest on the Unsecured Notes that became due solely because of the acceleration of the Unsecured Notes) and if all sums paid or advanced by the Trustee

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hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel have been paid.

In the event of a declaration of acceleration of the Unsecured Notes because an Event of Default has occurred and is continuing as a result of the acceleration of any Indebtedness described in Section 6.01(4) hereof (excluding any resulting payment default under this Indenture or the Unsecured Notes), the declaration of acceleration of the Unsecured Notes shall be automatically annulled if such Indebtedness is paid or otherwise acquired or retired or the Holders of all Indebtedness described in Section 6.01(4) hereof have rescinded or waived the declaration of acceleration in respect of such Indebtedness within 20 Business Days of the date of such declaration of acceleration of the Unsecured Notes, and if the annulment of the acceleration of the Unsecured Notes would not conflict with any judgment or decree of a court of competent jurisdiction, and all existing Events of Default, except non-payment of principal or interest on the Unsecured Notes that became due solely because of the acceleration of the Unsecured Notes, have been cured or waived and all amounts owing to the Trustee have been paid.

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 of, premium on, if any, or interest on, the Unsecured Notes or to enforce the performance of any provision of the Unsecured Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Unsecured Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of an Unsecured 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 then outstanding Unsecured Notes by written notice to the Trustee may, on behalf of the Holders of all of the Unsecured Notes waive any existing Default or Event of Default and its consequences under this Indenture, except a continuing Default or Event of Default in the payment of principal of, premium on, if any, or interest on, the Unsecured Notes; *provided, however*, that the Holders of a majority in aggregate principal amount of the then outstanding Unsecured Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such 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.

If a Default is deemed to occur solely as a consequence of the existence of another Default (the “*Initial Default*”), then, at the time such Initial Default is cured, the Default that resulted solely because of that Initial Default will also be cured without any further action.

Section 6.05 *Control by Majority.*

Holders of a majority in aggregate principal amount of the then outstanding Unsecured Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of other Holders of Unsecured Notes or that may involve the Trustee in personal liability.

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Section 6.06 *Limitation on Suits.*

Except to enforce the right to receive payment of principal or interest, if any, when due, no Holder of an Unsecured Note may pursue any remedy with respect to this Indenture or the Unsecured Notes unless:

- (1) such Holder has previously given the Trustee written notice that an Event of Default has occurred and is continuing;
- (2) Holders of at least 30% in aggregate principal amount of the then outstanding Unsecured Notes make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer and, if requested, provide to the Trustee security and/or indemnity satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with such request within 60 days after receipt of the notice, request and the offer of security and/or indemnity; and
- (5) during such 60-day period, Holders of a majority in aggregate principal amount of the then outstanding Unsecured Notes do not give the Trustee a direction inconsistent with such request.

A Holder of an Unsecured Note may not use this Indenture to prejudice the rights of another Holder of an Unsecured Note or to obtain a preference or priority over another Holder of an Unsecured 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 an Unsecured Note to receive payment of principal of, or interest on, the Unsecured Note, on or after the respective due dates expressed or provided for in the Unsecured Note (including in connection with an offer to purchase), 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(1) or (2) 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 or any Guarantor for the whole amount of principal of and interest remaining unpaid on, the Unsecured 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 determined 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 or any other proceedings, the Issuer, any Guarantor, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies hereunder of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.10 *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,

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expenses, disbursements and advances of the Trustee and their agents and counsel) and the Holders of the Unsecured Notes allowed in any judicial proceedings relative to the Issuer or any Guarantor (or any other obligor upon the Unsecured Notes), its creditors or its property and shall be entitled and empowered 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 Unsecured 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 6.11 *Priorities.*

Subject to the provisions of the Security Documents, if the Trustee collects any money pursuant to this Article 6 or, after an Event of Default, any money or other property distributable in respect of the Issuer's obligations under this Indenture, it shall pay out the money or distribute the property in the following order:

First: to the Trustee (including any predecessor 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;

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

Third: to the Issuer or to such party as a court of competent jurisdiction shall direct.

The Trustee, upon written notice to the Issuer, may fix a record date and payment date for any payment to Holders of Unsecured Notes pursuant to this Section 6.11.

Section 6.12 *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 and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.12 does not apply to a suit by the Trustee, a suit by a Holder of an Unsecured Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding Unsecured Notes.

Section 6.13 *Escrow Agreement and Trustee Appointment and Authorization.*

Each Holder, by its acceptance of an Unsecured Note, consents and agrees to the terms of the Escrow Agreement, including related documents thereto, as the same may be in effect or may be amended from time to time in writing by the parties thereto, and authorizes and directs the Trustee to enter into and acknowledge the Escrow Agreement and to perform its obligations and exercise its rights thereunder in accordance herewith and therewith.

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The Initial Issuer shall do or cause to be done all such acts and things as may be necessary or proper, or as may be required by the provisions of the Escrow Agreement, to assure and confirm to the Trustee the security interest contemplated by the Escrow Agreement or any part thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Unsecured Notes, according to the intent and purpose herein expressed. The Initial Issuer shall take, or shall cause to be taken, any and all actions reasonably required to cause the Escrow Agreement to create and maintain, as security for the Obligations of the Initial Issuer under this Indenture and the Unsecured Notes as provided in the Escrow Agreement, valid and enforceable first priority perfected liens in and on all the Escrowed Funds, in favor of the Trustee for its benefit and the ratable benefit of the Holders, superior to and prior to the rights of third Persons and subject to no other Liens.

ARTICLE 7 TRUSTEE

Section 7.01 *Duties of Trustee.*

(a) If an Event of Default has occurred and is continuing, the Trustee will 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:

(1) the duties of the Trustee will 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

(2) 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, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (however the Trustee shall have no obligation to verify the mathematical calculations contained therein).

(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:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(2) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee will 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), (c) and (e) of this Section 7.01.

(e) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability 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 adequate indemnity and/or security against such risk or liability is not reasonably assured to it.

(f) The Trustee will 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

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to the extent required by law. The Trustee shall have no obligation to invest funds received by it pursuant to this Indenture.

Section 7.02 *Rights of Trustee.*

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

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel or both, except that (x) no Officer's Certificate or Opinion of Counsel will be required to be furnished to the Trustee in connection with the authentication and delivery of the Initial Unsecured Notes on the Issue Date and (y) no Opinion of Counsel will be required to be furnished to the Trustee in connection with the execution of any amendment or supplement in the form of Exhibit D adding a new Guarantor under this Indenture or evidencing the release of a Guarantor pursuant to Section 10.07 hereof. The Trustee will 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 advice of such counsel or any Opinion of Counsel will 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 will not be responsible for the misconduct or negligence of any attorney or agent appointed with due care.

(d) The Trustee will 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 will be sufficient if signed by an Officer of the Issuer.

(f) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders have offered, and if requested, provided to the Trustee indemnity and/or security satisfactory to the Trustee against the losses, liabilities and expenses that might be incurred by it in compliance with such request or direction.

(g) The Trustee shall not be required to give any note, bond or surety in respect of the trusts and powers under this Indenture.

(h) The Trustee may request that the Issuer deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which certificate may be signed by any person authorized to sign an Officer's Certificate, including any person specified as so authorized in such certificate previously delivered and not superseded.

(i) Delivery of reports, information and documents to the Trustee described in Section 4.03 hereof is for informational purposes only and the Trustee's receipt of such shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's or the Guarantors' compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely conclusively on Officer's Certificates). The Trustee is under no duty to examine such reports, information or documents to ensure compliance with the provision of this Indenture or to ascertain the correctness or otherwise of the information or the statements contained therein.

(j) In no event shall the Trustee be responsible or liable for special, indirect, punitive 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.

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(k) The Trustee shall not be deemed to have notice of any Default or Event of Default unless written notice of any event which is in fact such a Default or Event of Default is received by a Responsible Officer of the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Unsecured Notes and this Indenture.

(l) 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 and each agent, custodian and other Person employed to act hereunder.

(m) Neither the Trustee nor the Registrar shall have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or the Private Placement Legend or under applicable law with respect to any transfer of any interest in any Unsecured Note (including any transfers between or among Depositary participants, members or Beneficial Owners 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.

(n) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document.

(o) The permissive right of the Trustee to take actions that are permitted, but not required, by this Indenture shall not be construed as an obligation or duty to do so.

Section 7.03 *Individual Rights of Trustee.*

The Trustee in its individual or any other capacity may become the owner or pledgee of Unsecured 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 as defined in the TIA it must eliminate such conflict within 90 days or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Section 7.10 hereof.

Section 7.04 *Trustee's Disclaimer.*

The Trustee shall not be responsible for, and the Trustee makes no representation as to the validity or adequacy of this Indenture or the Unsecured Notes, nor shall the Trustee be accountable for the Issuer's use of the proceeds from the Unsecured Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture. The Trustee 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 Unsecured Notes or any other document in connection with the sale of the Unsecured Notes or pursuant to this Indenture other than its certificate of authentication. The Trustee shall not be responsible for making any calculation with respect to any matter under this Indenture. The Trustee shall have no duty to monitor or investigate the Issuer's compliance with or the breach of, or cause to be performed or observed, any representation, warranty, or covenant, or agreement of any Person, other than the Trustee made in this Indenture.

Section 7.05 *Notice of Defaults.*

If a Default or Event of Default occurs and is continuing and if it is known to the Trustee, the Trustee will mail (or with respect to Global Notes, to the extent permitted or required by applicable DTC procedures or regulations, send electronically) to Holders of Unsecured Notes a notice of the Default or Event of Default within 90 days after the Trustee obtains knowledge thereof. Except in the case of a Default or Event of Default in payment of principal of, premium on, if any, or interest on, any Unsecured Note, the Trustee may withhold the notice if and so

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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 Unsecured Notes.

Section 7.06 *[Reserved]*.

Section 7.07 *Compensation and Indemnity.*

(a) The Issuer will pay to the Trustee from time to time reasonable compensation as is agreed to from time to time by the Issuer and the Trustee for its acceptance of this Indenture and services hereunder. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Issuer will reimburse the Trustee promptly upon request for all reasonable out-of-pocket disbursements, advances and expenses incurred or made by it in addition to the compensation for its services except for any such disbursements, advance or expense as shall have been caused by the Trustee's negligence or willful misconduct. Such expenses will include the reasonable out-of-pocket compensation, disbursements and expenses of the Trustee's agents and counsel.

(b) The Issuer and the Guarantors will indemnify on a joint and several basis the Trustee (including its officers, directors, employees and agents) against any and all losses, liabilities or expenses, including fees and expenses of counsel, including Taxes (other than Taxes based upon, measured by or determined by the income of the Trustee), incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the reasonable costs and expenses of enforcing this Indenture against the Issuer and the Guarantors (including this Section 7.07) and defending itself against any claim (whether asserted by the Issuer, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence or willful misconduct. The Trustee will notify the Issuer promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer will not relieve the Issuer or any of the Guarantors of their obligations hereunder. The Issuer or such Guarantor will defend the claim and the Trustee will cooperate in the defense. The Trustee may have separate counsel and the Issuer will pay the reasonable fees and out-of-pocket expenses of such counsel. Neither the Issuer nor any Guarantor needs to pay for any settlement made without its consent, which consent will not be unreasonably withheld.

(c) The obligations of the Issuer and the Guarantors under this Section 7.07 will survive the satisfaction and discharge of this Indenture, the resignation or removal of the Trustee and the termination for any reason of this Indenture.

(d) To secure the Issuer's and the Guarantors' payment obligations in this Section 7.07, the Trustee will have a Lien prior to the Unsecured Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium on, if any, or interest on, particular Unsecured Notes. Such Lien will survive the satisfaction and discharge of this Indenture, the resignation or removal of the Trustee and the termination for any reason of this Indenture.

(e) Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services after an Event of Default specified in clauses (6) and (7) of Section 6.01 hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Code.

(f) "Trustee" for purposes of this Section shall include any predecessor Trustee; provided, however, that the negligence, willful misconduct or bad faith of any Trustee hereunder shall not affect the rights of any other Trustee hereunder.

Section 7.08 *Replacement of Trustee.*

(a) A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

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(b) The Trustee may resign at any time upon 30 days' prior written notice to the Issuer and be discharged from the trust hereby created by so notifying the Issuer. The Holders of a majority in aggregate principal amount of the then outstanding Unsecured Notes may remove the Trustee by so notifying the Trustee and the Issuer with 30 days' prior written notice. The Issuer may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10 hereof;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Code;
- (3) a custodian or public officer takes charge of the Trustee or its property; or
- (4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of the Trustee for any reason, the Issuer will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding Unsecured Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

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

(e) 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.

(f) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will mail (or with respect to Global Notes, to the extent permitted or required by applicable DTC procedures or regulations, send electronically) a notice of its succession to Holders. The retiring Trustee will promptly transfer all property held by it as Trustee to the successor 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 and the Guarantors' obligations under Section 7.07 hereof will 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 Person, the successor Person without any further act will be the successor Trustee.

Section 7.10 *Eligibility; Disqualification.*

There will at all times be a Trustee hereunder that is a corporation or national banking association 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 \$50.0 million 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 elect to have either Section 8.02 or 8.03 hereof applied to all outstanding Unsecured Notes (including the Unsecured Note Guarantees), 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 each of the Guarantors, if any, will, 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 Unsecured Notes (including the Unsecured Note Guarantees), on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Issuer and the Guarantors, if any, will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Unsecured Notes (including the Unsecured Note Guarantees), which will 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 clauses (1) and (2) below, and to have satisfied all their other obligations under such Unsecured Notes, the Unsecured Note Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the Issuer, shall execute such instruments reasonably requested by the Issuer acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

- (1) the rights of Holders of outstanding Unsecured Notes to receive payments in respect of the principal of, premium on, if any, and interest, if any, on, such Unsecured Notes when such payments are due from the trust referred to in Section 8.04 hereof;
- (2) the Issuer's obligations with respect to such Unsecured Notes under Article 2 and Section 4.02 hereof;
- (3) the rights, powers, trusts, duties and immunities of the Trustee hereunder, and the Issuer's and the Guarantors', if any, obligations in connection therewith (including, without limitation, those contained in Article 7 hereof); and
- (4) this Article 8.

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. Notwithstanding anything to the contrary contained herein, the Issuer's and the Guarantors' obligations under Section 7.07 shall survive a Legal Defeasance.

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 will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from each of their obligations under the covenants contained in Sections 4.03, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.14, 4.16 and 4.21 hereof and clauses (3) and (4) of Section 5.01 hereof with respect to the outstanding Unsecured Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*Covenant Defeasance*"), the Unsecured Note Guarantees will be released pursuant to Section 10.07 hereof and the Unsecured Notes and Unsecured Note Guarantees will 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 will continue to be deemed "outstanding" for all other purposes hereunder (it being

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understood that such Unsecured Notes and the Unsecured Note Guarantees will not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Unsecured Notes and Unsecured Note Guarantees, the Issuer and the Guarantors, if any, may omit to comply with and will 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 will 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 Unsecured Notes and Unsecured Note Guarantees will be unaffected thereby. In addition, upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(3) (to the extent relating to the covenants that are subject to Covenant Defeasance), (4), (5) and (8) hereof will not constitute Events of Default. Notwithstanding anything to the contrary contained herein, the Issuer's and the Guarantors' obligations under Section 7.07 shall survive a Covenant Defeasance.

Section 8.04 *Conditions to Legal or Covenant Defeasance.*

In order to exercise either Legal Defeasance or Covenant Defeasance under either Section 8.02 or 8.03 hereof:

- (1) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the Unsecured Notes, (x) cash in U.S. dollars in an amount, (y) non-callable Government Securities, the scheduled payments of principal of and interest thereon will be in an amount, or (z) a combination thereof in amounts, as will be sufficient, without consideration of any reinvestment of interest, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, premium on, if any, and interest, if any, on, the outstanding Unsecured Notes to the stated date for payment thereof or to the applicable redemption date, as the case may be, and all interest, if any, accrued to such dates, and the Issuer must specify whether the Unsecured Notes are being defeased to such stated date for payment or to a particular redemption date;
- (2) the Issuer must deliver to the Trustee, (a) in the case of Legal Defeasance, an Opinion of Counsel to the effect that (i) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling, or (ii) since the Issue Date, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel will confirm, that the Holders of outstanding Unsecured Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred; and (b) in the case of Covenant Defeasance, an Opinion of Counsel to the effect that the Holders of outstanding Unsecured Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- (3) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Indebtedness), and the granting of Liens to secure such borrowings);
- (4) 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 and the agreements governing any other Indebtedness being defeased, discharged or replaced) to which the Issuer or any of the Guarantors is a party or by which the Issuer or any of the Guarantors is bound;

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(5) 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 Unsecured Notes over the other creditors of the Issuer with the intent of defeating, hindering, delaying or defrauding any creditors of the Issuer or others; and

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

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

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

The Issuer will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable 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 Unsecured Notes.

Notwithstanding anything in this Article 8 to the contrary, the Trustee will deliver or pay to the Issuer from time to time upon the request of the Issuer any money or non-callable 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(1) 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.*

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 on, if any, or interest, if any, on, any Unsecured Note and remaining unclaimed for two years after such principal, premium, if any, or interest, if any, has become due and payable shall be paid to the Issuer on its request, unless an abandoned property law designates another person, or (if then held by the Issuer) will be discharged from such trust; and the Holder of such Unsecured Note will thereafter be permitted to 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, will thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Issuer cause to be published once, in *The New York Times* and *The Wall Street Journal* (national edition), notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Issuer.

Section 8.07 *Reinstatement.*

If the Trustee or Paying Agent is unable to apply any U.S. dollars or non-callable 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 and the Guarantors' obligations under this Indenture and the Unsecured Notes and the Unsecured Note Guarantees will be

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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, however*, that, if the Issuer makes any payment of principal of, premium on, if any, or interest, if any, on, any Unsecured Note following the reinstatement of its obligations, the Issuer will be subrogated to the rights of the Holders of such Unsecured 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 Unsecured Notes.*

Notwithstanding Section 9.02 hereof, without the consent of any Holder of Unsecured Notes, the Issuer, the Guarantors and the Trustee may amend or supplement this Indenture, the Escrow Agreement, the Unsecured Notes or the Unsecured Note Guarantees:

- (1) to cure any ambiguity, mistake, defect or inconsistency;
- (2) to provide for uncertificated Unsecured Notes in addition to or in place of certificated Unsecured Notes;
- (3) to provide for the assumption of the Issuer's or any Guarantor's obligations to Holders of Unsecured Notes and Unsecured Note Guarantees in the case of a merger, consolidation or amalgamation or Division or sale, assignment, transfer, conveyance, lease or other disposition of all or substantially all of the Issuer's or such Guarantor's assets, as applicable (including an assumption of the Initial Issuer's obligations pursuant to the Initial Issuer Merger);
- (4) to make any change that would provide any additional rights or benefits to the Holders of the Unsecured Notes or that does not adversely affect the legal rights under this Indenture of any Holder;
- (5) to comply with requirements of the Commission in order to effect or maintain the qualification of this Indenture under the TIA, if applicable;
- (6) to conform the text of this Indenture, the Unsecured Notes, the Unsecured Note Guarantees or the Escrow Agreement to any provision of the "Description of the Unsecured Notes" section of the Offering Memorandum;
- (7) to provide for the issuance of Additional Unsecured Notes in accordance with the limitations set forth in this Indenture as of the Issue Date;
- (8) to allow any Guarantor to execute a supplemental indenture and/or an Unsecured Note Guarantee with respect to the Unsecured Notes, in each case, in accordance with the terms of this Indenture; or
- (9) to add or release Unsecured Note Guarantees in accordance with the terms of this Indenture.

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 7.02, 9.06, 13.02 and 13.03 hereof, the Trustee will join with the Issuer and the Guarantors, if any, in the execution of any amendment 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

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Trustee will not be obligated to enter into such amendment or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02 *With Consent of Holder of Unsecured Notes.*

Except as provided below in this Section 9.02, the Issuer, the Guarantors and the Trustee may amend or supplement this Indenture (including, without limitation, Sections 3.09, 4.10 and 4.14 hereof), the Escrow Agreement, the Unsecured Notes or the Unsecured Note Guarantees with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Unsecured Notes other than the Unsecured Notes beneficially owned by the Issuer or its Affiliates (including, without limitation, Additional Unsecured Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Unsecured Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium on, if any, or interest, if any, on, the Unsecured Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, the Escrow Agreement, the Unsecured Notes or the Unsecured Note Guarantees, may be waived with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Unsecured Notes other than the Unsecured Notes beneficially owned by the Issuer or its Affiliates (including, without limitation, Additional Unsecured Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Unsecured Notes). Sections 2.08 and 2.09 hereof shall determine which Unsecured Notes are considered to be "outstanding" for purposes of this Section 9.02; *provided that* (x) if any such amendment or waiver will only affect one series of Unsecured Notes (or less than all series of Unsecured Notes) then outstanding under this Indenture, then only the consent of the Holders of a majority in principal amount of the Unsecured Notes of such series then outstanding (including, in each case, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Unsecured Notes) shall be required and (y) if any such amendment or waiver by its terms will affect a series of Unsecured Notes in a manner different and materially adverse relative to the manner such amendment or waiver affects other series of Unsecured Notes, then the consent of the Holders of a majority in principal amount of the Unsecured Notes of such series then outstanding (including, in each case, consents obtained in connection with a tender offer or exchange offer for Unsecured Notes) shall be required.

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 reasonably satisfactory to the Trustee of the consent of the Holders of Unsecured Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02, 9.06, 13.02 and 13.03 hereof, the Trustee will join with the Issuer and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental Indenture.

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

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Issuer will mail (or with respect to Global Notes, to the extent permitted or required by applicable DTC procedures or regulations, send electronically) to the Holders of Unsecured Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to deliver such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Unsecured Notes then outstanding voting as a single class may waive compliance in a particular instance by the Issuer or Guarantors with any provision of this Indenture, the Unsecured Notes or any Unsecured Note Guarantees. However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 9.02 may not (with respect to any Unsecured Notes held by a non-consenting Holder):

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- (1) reduce the principal amount of Unsecured Notes whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the Stated Maturity of any Unsecured Note or alter or waive any of the provisions relating to the dates on which the Unsecured Notes may be redeemed or the redemption price thereof with respect to the redemption of the Unsecured Notes (other than any change to the notice periods with respect to such redemption);
- (3) reduce the rate of or change the time for payment of interest, including default interest, on any Unsecured Note;
- (4) waive a Default or Event of Default in the payment of principal of, premium on, if any, or interest, if any, on, the Unsecured Notes (except a rescission of acceleration of the Unsecured Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Unsecured Notes and a waiver of the payment default that resulted from such acceleration);
- (5) make any Unsecured Note payable in anything other than U.S. dollars;
- (6) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Unsecured Notes to receive payments of principal of, premium on, if any, or interest, if any, on, the Unsecured Notes;
- (7) subject to the final paragraph in Section 3.09, modify the obligation of the Issuer to repurchase Unsecured Notes pursuant to Section 3.09, 4.10 or 4.14 hereof, after the date of an event giving rise to such repurchase obligation;
- (8) release any Guarantor that is a Significant Subsidiary from any of its obligations under its Unsecured Note Guarantee or this Indenture, except in accordance with the terms of this Indenture;
- (9) make any change in the preceding amendment and waiver provisions;
- (10) make any change to, or modify, the ranking of the Unsecured Notes in respect of right of payment that would adversely affect the Holders of the Unsecured Notes; or
- (11) waive or modify in a manner materially adverse to the interests of the Holders the provisions relating to the Initial Issuer's obligation to redeem the Unsecured Notes in a Special Mandatory Redemption.

An Unsecured Note shall not cease to be outstanding because the Issuer or its respective Affiliates hold the Unsecured Note; *provided* that in determining whether the Holders of the requisite aggregate principal amount of outstanding Unsecured Notes have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Unsecured Notes beneficially owned by the Issuer or its respective Affiliates shall be disregarded and deemed not to be outstanding.

Section 9.03 *[Reserved]*.

Section 9.04 *Revocation and Effect of Consents*.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of an Unsecured Note is a continuing consent by the Holder of an Unsecured Note and every subsequent Holder of an Unsecured Note or portion of an Unsecured Note that evidences the same debt as the consenting Holder's Unsecured Note, even if notation of the consent is not made on any Unsecured Note. However, any such Holder of an Unsecured Note or subsequent Holder of an Unsecured Note may revoke the consent as to its Unsecured Note if the Trustee

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receives written notice of revocation before the date on which the Trustee receives an Officer's Certificate certifying that the Holders of the requisite principal amount of Unsecured Notes have consented (and not theretofore revoked such consent) to the amendment, supplement or waiver. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.05 *Notation on or Exchange of Unsecured Notes.*

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Unsecured Note thereafter authenticated. The Issuer in exchange for all Unsecured Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Unsecured Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Unsecured Note will not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 *Trustee to Sign Amendments, etc.*

The Trustee will sign any amended or supplemental indenture 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 amended or supplemental indenture until the Board of Directors of the Issuer approves it. In executing any amended or supplemental indenture, the Trustee will be entitled to receive and (subject to Section 7.01 hereof) will be fully protected in relying upon, in addition to the documents required by Sections 13.02 and 13.03 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, in the case of an Opinion of Counsel, that such supplemental indenture constitutes the legally valid and binding obligation of the Issuer and the Guarantors, subject to customary exceptions. Notwithstanding the foregoing, no Opinion of Counsel will be required for the Trustee to execute any amendment or supplement in the form of Exhibit D adding a new Guarantor under this Indenture or releasing a Guarantee by a Guarantor pursuant to Section 10.07.

ARTICLE 10 NOTE GUARANTEES

Section 10.01 *Guarantee.*

(a) Subject to this Article 10, upon consummation of the Acquisition, each of the Guarantors hereby, jointly and severally, irrevocably, fully and unconditionally guarantees to each Holder of an Unsecured Note authenticated and delivered by the Trustee and to the Trustee and each of its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Unsecured Notes or the obligations of the Issuer hereunder or thereunder, to pay fully and promptly, unconditionally, irrevocably, upon first demand and without raising any defenses or objections, set-off or counterclaim and without verification of the legal ground:

(1) any amount in respect of the principal of, premium on, if any, and interest on, the Unsecured Notes and interest on the overdue principal of, premium on, if any, and interest on, the Unsecured Notes, if lawful, and any amount in respect of all other obligations of the Issuer to the Holders or the Trustee hereunder or thereunder, all in accordance with the terms hereof and thereof (including, without limitation, interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Issuer or any Guarantor whether or not a claim for post-filing or post-petition interest is allowed in such proceeding and the obligations under Section 7.07 hereof); and

(2) in case of any extension of time of payment or renewal of any Unsecured Notes or any of such other obligations, that same in accordance with the terms of the extension or renewal.

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Failing payment when due of any amount so guaranteed for whatever reason, the Guarantors will 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.

(b) The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective and separate of the validity, regularity or enforceability of the Unsecured Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Unsecured 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 (to the fullest extent permitted by law) 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 Unsecured Note Guarantee will not be discharged except by complete performance of the obligations contained in the Unsecured Notes and this Indenture.

(c) 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 by either to the Trustee or such Holder, this Unsecured Note Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

(d) Each Guarantor agrees that it will 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, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Unsecured Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) 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) will forthwith become due and payable by the Guarantors for the purpose of this Unsecured Note Guarantee. The Guarantors will 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 Unsecured Note Guarantee.

Section 10.02 *Limitation on Guarantor Liability.*

Each Guarantor, and by its acceptance of Unsecured Notes, each Holder, hereby confirms that it is the intention of all such parties that the Unsecured Note Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Code, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal, state law, or the laws of the jurisdiction of organization of such Guarantor to the extent applicable to any Unsecured Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that 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 Unsecured Note Guarantee not constituting a fraudulent transfer or conveyance.

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Section 10.03 *[Reserved]*.

Section 10.04 *[Reserved]*.

Section 10.05 *Execution and Delivery of Unsecured Note Guarantee.*

To evidence its Unsecured Note Guarantee set forth in Section 10.01 hereof, each Guarantor hereby agrees that this Indenture or a supplemental indenture substantially in the form attached as Exhibit D hereto will be executed on behalf of such Guarantor by one of its Officers.

Each Guarantor hereby agrees that its Unsecured Note Guarantee set forth in Section 10.01 hereof will remain in full force and effect notwithstanding any failure to endorse on each Unsecured Note a notation of such Unsecured Note Guarantee.

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

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

In the event that the Issuer or any of its Restricted Subsidiaries creates or acquires any Restricted Subsidiary after the Issue Date, if required by Section 4.16 hereof, the Issuer will cause such Restricted Subsidiary to comply with the provisions of Section 4.16 hereof and this Article 10, to the extent applicable.

Neither the Issuer nor any Guarantor shall be required to make a notation on the Unsecured Notes to reflect an Unsecured Note Guarantee or any release, termination or discharge thereof.

Section 10.06 *Guarantors May Consolidate, etc., on Certain Terms.*

Except as otherwise provided in Article 5 or 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:

- and
 - (1) immediately after giving effect to such transaction, no Default or Event of Default exists;
 - (2) either:
 - (a) subject to Section 10.07 hereof, the Person (if other than the Guarantor) acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger (if other than the Guarantor) unconditionally assumes all the obligations of that Guarantor under its Unsecured Note Guarantee and this Indenture, on the terms set forth therein or herein, pursuant to a supplemental indenture; or
 - (b) the Net Proceeds of such sale or other disposition are applied, if required, in accordance with the applicable provisions of this Indenture, including without limitation, Section 4.10 hereof.

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 (it being understood that such supplemental indenture need not be executed by any other Person besides the Issuer and any such successor Person), of the Unsecured Note Guarantee and the due and punctual performance of all of the covenants and conditions of

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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 Unsecured Note Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Unsecured Note Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Unsecured Note Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 4 and 5 hereof, and notwithstanding clauses 2(a) and (b) above, nothing contained in this Indenture or in any of the Unsecured 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.

Section 10.07 *Releases.*

An Unsecured Note Guarantee of a Guarantor shall be automatically and unconditionally released and discharged without the consent of Holders of Unsecured Notes and each Guarantor and its obligations under the Unsecured Notes Guarantee will be released and discharged upon:

(1) the sale, exchange, disposition or other transfer (including through merger, consolidation, amalgamation, Division or dissolution) of (x) the Capital Stock of such 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 after such transaction the Guarantor is no longer a Restricted Subsidiary, or (y) all or substantially all the assets of such Guarantor, in each case, if such sale, exchange, disposition or other transfer (including through merger, consolidation, amalgamation, Division or dissolution) is made in compliance with this Indenture;

(2) the Issuer designating such Guarantor to be an Unrestricted Subsidiary in accordance with the provisions of Section 4.07 hereof and the definition of "Unrestricted Subsidiary;"

(3) in the case of any Restricted Subsidiary that after the Acquisition Date is required to guarantee the Unsecured Notes pursuant to Section 4.16 hereof, the release or discharge of the Guarantee by such Guarantor of Indebtedness of the Issuer or any Restricted Subsidiary or the repayment of the Indebtedness or Disqualified Stock, in each case, that resulted in the obligation to guarantee the Unsecured Notes, except if a release or discharge is by or as a result of payment in connection with the enforcement of remedies under such other Guarantee;

(4) the Issuer's exercise of its Legal Defeasance option or Covenant Defeasance option pursuant to Article 8 hereof, or if the Issuer's Obligations under this Indenture are discharged (including pursuant to a satisfaction and discharge of this Indenture or through redemption or repurchase of all of the Unsecured Notes or otherwise) in accordance with the terms of this Indenture;

(5) [reserved];

(6) such Guarantor becoming an Excluded Subsidiary; *provided* that in the case of any such Guarantor that becomes an Excluded Subsidiary solely as a result of becoming a non-Wholly Owned Subsidiary, such Guarantor shall only be released from its obligations under the Unsecured Notes Guarantee pursuant to this clause (6) if such Restricted Subsidiary became a non-Wholly Owned Subsidiary pursuant to a transaction where such Subsidiary becomes a bona fide joint venture where the other Person taking an equity interest in such Subsidiary is not an Affiliate of the Issuer (other than as a result of such joint venture);

(7) [reserved];

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(8) the Unsecured Note Guarantees are unconditionally released and discharged pursuant to Section 4.19 hereof;

(9) such Guarantor is released pursuant to clause (8) of Section 9.02;

In connection with any release under clause 10.07(1) above, upon delivery by the Issuer to the Trustee of an Officer's Certificate to the effect that all conditions precedent provided for in this Indenture to such release have been complied with, the Trustee will execute any documents reasonably requested by the Issuer in order to evidence the release of any Guarantor from its obligations under its Unsecured Note Guarantee. The Net Proceeds of such sale or other disposition shall be applied, if required, in accordance with the applicable provisions of this Indenture.

To the extent the Issuer requests evidence of release of a Guarantor under Section 10.07(2) through 10.07(9), the Issuer shall deliver an Officer's Certificate with respect to such release.

Any Guarantor not released from its obligations under its Unsecured Note Guarantee as provided in this Section 10.07 will remain liable for the full amount of principal of, premium on, if any, and interest on, the Unsecured Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 10.

ARTICLE 11 SATISFACTION AND DISCHARGE

Section 11.01 *Satisfaction and Discharge.*

This Indenture will be discharged and will cease to be of further effect as to all Unsecured Notes issued hereunder (except for certain rights of the Trustee, which shall survive), when:

(1) either:

(a) all Unsecured Notes that have been authenticated, except lost, stolen or destroyed Unsecured Notes that have been replaced or paid and Unsecured Notes for whose payment money has been deposited in trust and thereafter repaid to the Issuer or discharged from such trust, have been cancelled or delivered to the Trustee for cancellation; or

(b) all such Unsecured Notes not previously delivered to the Trustee for cancellation have become due and payable, will become due and payable at their Stated Maturity within one year or have been called for redemption or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of a notice of redemption in the name and at the expense of the Issuer and the Issuer or any Restricted Subsidiary has deposited or caused to be deposited with the Trustee in a manner that is not revocable, (i) cash in U.S. dollars in an amount, (ii) non-callable Government Securities, the scheduled payments of principal of and interest thereon will be in an amount, or (iii) a combination thereof in an amount, as will be sufficient (in the case that Government Securities have been deposited, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants certified in writing to the Trustee), without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on such Unsecured Notes for principal of, premium on, if any, and interest, if any, on, the Unsecured Notes to the date of maturity or redemption;

(2) any Issuer or any Restricted Subsidiary has paid or caused to be paid all sums then due and payable by the Issuer and Guarantors under this Indenture; and

(3) the Issuer has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Unsecured Notes to maturity or to the redemption date, as the case may be.

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In addition, the Issuer must deliver an Officer's Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 11.01, the provisions of Sections 11.02 and 8.06 hereof will survive. In addition, nothing in this Section 11.01 will be deemed to discharge those provisions of Section 7.07 hereof, that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 11.02 *Application of Trust Money.*

Subject to the provisions of Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) 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 Unsecured 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, 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 Unsecured 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 on, if any, or interest on, any Unsecured Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Unsecured Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

The Issuer will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 11.01 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 Unsecured Notes.

Notwithstanding anything in this Article 11 to the contrary, the Trustee will deliver or pay to the Issuer from time to time upon the request of the Issuer any money or non-callable Government Securities held by it as provided in Section 11.01 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof that would then be required to be deposited to effect a discharge in accordance with this Article 11.

ARTICLE 12 [RESERVED]

ARTICLE 13 MISCELLANEOUS

Section 13.01 *Notices.*

Any notice or communication by the Issuer, any Guarantor or the Trustee to the others or to them by the Holders is duly given if in writing and delivered in Person or by first class mail (registered or certified, return receipt requested), facsimile transmission or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Initial Issuer:

Wolverine Escrow, LLC

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c/o Platinum Equity Advisors, LLC
360 North Crescent Drive, South Building
Beverly Hills, CA 90210
Facsimile: (310) 712-1863
Attention: Legal Department

If to the Ultimate Issuer and/or any Guarantor:

Wesco Aircraft Holdings, Inc.
c/o Platinum Equity Advisors, LLC
360 North Crescent Drive, South Building
Beverly Hills, CA 90210
Facsimile: (310) 712-1863
Attention: Legal Department

With a copy to (which copy shall be delivered as an accommodation and shall not be required to be delivered in satisfaction of any requirement hereof):

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019
Facsimile: (212) 728-9214
Attention: Cristopher Greer

If to the Trustee:

The Bank of New York Mellon Trust Company, N.A.
2 N. LaSalle Street – Suite 700
Chicago, IL 60602
Fax: (312) 827-8542
Attention: Corporate Trust Administration

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) will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by facsimile or e-mail; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery, except in the case of notices or communications given to the Trustee, which shall be effective only upon actual receipt by the Trustee at its Corporate Trust Office.

Any notice or communication to a Holder will 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 will 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, except in the case of notices or communications given to the Trustee, which shall be effective only upon actual receipt by the Trustee at its Corporate Trust Office.

If the Issuer mails a notice or communication to Holders, it will mail a copy to the Trustee and each Agent at the same time.

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The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, pdf, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reasonable reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction.

Notwithstanding any other provision of this Indenture or any Unsecured Note, where this Indenture or any Unsecured Note provides for notice of any event (including any notice of redemption or purchase) to a Holder of a Global Note (whether by mail or otherwise), such notice shall be sufficiently given if given to DTC (or its designee) pursuant to the standing instructions from DTC or its designee.

Section 13.02 *Certificate and Opinion as to Conditions Precedent.*

Upon any request or application by the Issuer or a Guarantor to the Trustee to take any action under this Indenture, the Issuer or such Guarantor, as applicable, shall furnish to the Trustee:

(1) an Officer's Certificate in form reasonably satisfactory to the Trustee (which must include the statements set forth in Section 13.03 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

(2) an Opinion of Counsel in form reasonably satisfactory to the Trustee (which must include the statements set forth in Section 13.03 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied;

provided that (x) no Officer's Certificate or Opinion of Counsel will be required to be furnished to the Trustee in connection with the authentication and delivery of the Initial Unsecured Notes on the Issue Date and (y) no Opinion of Counsel will be required to be furnished to the Trustee in connection with the execution of any amendment or supplement in the form of Exhibit D adding a new Guarantor under this Indenture or evidencing the release of a Guarantor pursuant to Section 10.07 hereof.

Section 13.03 *Statements Required in Certificate or Opinion.*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture must include:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

(2) 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;

(3) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied;

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provided that an issuer of an Opinion of Counsel may rely as to matters of fact on an Officer's Certificate or a certificate of a public official.

Section 13.04 *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 13.05 *No Personal Liability of Directors, Officers, Employees and Equity Holders, including Members.*

No manager, managing director, director, officer, employee, incorporator or equity holder, including members, of the Issuer, any Subsidiary or any direct or indirect parent of the Issuer, as such, will have any liability for any obligations of the Issuer or the Guarantors under the Unsecured Notes, this Indenture, the Unsecured Note Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Unsecured Notes by accepting an Unsecured Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Unsecured Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 13.06 *Governing Law.*

THE LAWS OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE UNSECURED NOTES AND THE UNSECURED NOTES 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.

Section 13.07 *Consent to Jurisdiction.*

Any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated hereby may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York in each case located in the City of New York (collectively, the "*Specified Courts*"), and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party's address set forth in Section 13.01 hereof shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum. Notwithstanding the foregoing, the Trustee may bring an action against the Issuer in any other jurisdiction of its choosing.

Section 13.08 *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 Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 13.09 *Successors.*

All agreements of the Issuer in this Indenture and the Unsecured Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 10.07 hereof.

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Section 13.10 *Severability.*

In case any provision in this Indenture or in the Unsecured Notes is invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

Section 13.11 *Counterpart Originals.*

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of a signature page to this Indenture by facsimile, email or other electronic means shall be effective as delivery of a manually executed counterpart of this Indenture.

Section 13.12 *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 will in no way modify or restrict any of the terms or provisions hereof.

Section 13.13 *Force Majeure.*

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, 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 and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 13.14 *Waiver of Jury Trial.*

THE ISSUER, THE GUARANTORS (IF ANY) AND THE TRUSTEE, AND EACH HOLDER OF A NOTE BY ITS ACCEPTANCE THEREOF, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE NOTE GUARANTEES OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 13.15 *[Reserved].*

Section 13.16 *[Reserved].*

Section 13.17 *[Reserved].*

Section 13.18 *[Reserved].*

Section 13.19 *No Qualification Under the Trust Indenture Act.*

This Indenture is not qualified under the TIA and, accordingly, the TIA shall not apply to or in any way govern the terms of this Indenture.

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Section 13.20 *Days Other than Business Days.*

If a payment date is not a Business Day, payment shall be made on the next succeeding day that is a Business Day, and no interest shall accrue on such payment for the intervening period. If a regular record date is not a Business Day, the record date shall not be affected.

ARTICLE 14 ESCROW ARRANGEMENTS

Section 14.01 *Escrow of Proceeds*

Concurrently with the closing of the offering of the Unsecured Notes on the Issue Date, the Initial Issuer will enter into an Escrow Agreement with Trustee and the Escrow Agent, pursuant to which the Initial Issuer will deposit (or cause to be deposited) into an escrow account (the “*Escrow Account*”) an amount in cash equal to the gross proceeds of this offering of Unsecured Notes (together with any earnings thereon and investments thereof, collectively the “*Escrowed Funds*”). The Initial Issuer will grant the Trustee, for the benefit of itself and the Holders, a first-priority security interest in the Escrow Account and all deposits and investments therein to secure the Obligations under the Unsecured Notes pending disbursement as set forth herein.

Section 14.02 *Special Mandatory Redemption*

(a) In the event that (a) the Acquisition Date does not take place on or prior to the Outside Date, (b) at any time prior to the Outside Date, the Escrow Release Condition is deemed, in the good faith judgment of the Initial Issuer or any direct or indirect parent of the Initial Issuer, to be incapable of being satisfied on or prior to the Outside Date or (c) at any time prior to the Outside Date, the Acquisition Agreement is terminated in accordance with its terms without the closing of the Acquisition and the Reorganization (any such event being a “*Mandatory Redemption Event*”), the Initial Issuer will redeem all of the Unsecured Notes (the “*Special Mandatory Redemption*”) no later than three business days following the Mandatory Redemption Event (or otherwise in accordance with the applicable procedures of DTC) (the “*Special Mandatory Redemption Date*”) at a price equal to 100.0% of the initial issue price of the Unsecured Notes plus accrued and unpaid interest (and accretion, if any) from the Issue Date to, but not including, the Special Mandatory Redemption Date (the “*Special Mandatory Redemption Price*”). On or prior to the Special Mandatory Redemption Date, the Escrow Agent shall release (x) an amount of Escrowed Funds to the Trustee equal to the Special Mandatory Redemption Price and (y) after payment of any amounts due to the Trustee and Escrow Agent, any remaining amount of Escrowed Funds to the Initial Issuer.

(b) As long as Escrowed Funds are deposited with the Escrow Agent, they will be invested by the Escrow Agent at the Initial Issuer’s written instruction in Eligible Escrow Investments. In the absence of written instruction, the Escrowed Funds shall be invested as provided in the Escrow Agreement or remain uninvested in cash.

(c) If the Escrow Agent (i) has not received an Officer’s Certificate at or prior to 11:00 a.m. (New York City time) on the Outside Date or (ii) has received an escrow termination notice from the Initial Issuer prior to the Outside Date, then the Escrow Agent promptly after 11:00 a.m. (New York City time) on the Outside Date or the date on which it has received an escrow termination notice (as applicable) shall liquidate the Escrowed Funds and, on or prior to the Special Mandatory Redemption Date, release (x) an amount of Escrowed Funds to the Trustee equal to the Special Mandatory Redemption Price and (y) after payment of any amounts due to the Trustee and Escrow Agent, any remaining amount of Escrowed Funds to the Initial Issuer.

Section 14.03 *Release of Escrow Funds*

The Initial Issuer shall only be entitled to direct the Escrow Agent to release the Escrowed Funds in accordance with the terms of the Escrow Agreement. Pursuant to the Escrow Agreement, the Escrow Agent shall release the Escrowed Funds (the “*Escrow Release*”) to the Initial Issuer (the date of such Escrow Release being

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referred to as the “*Acquisition Date*”) upon the presentation by the Initial Issuer of an Officer’s Certificate addressed to the Escrow Agent and the Trustee on or prior to February 8, 2020 (*provided* that such date shall automatically be extended to May 8, 2020 if the Outside Date has been so extended pursuant to the terms of the Acquisition Agreement), certifying that substantially concurrently with the Escrow Release, the Acquisition will be consummated in accordance in all material respects with the Acquisition Agreement (without waiver or amendment thereof, or consent thereunder that is materially adverse to the Holders) and the Reorganization shall be consummated as described in the Offering Memorandum (the “*Escrow Release Condition*”).

[Signatures on following page]

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SIGNATURES

Dated as of November 27, 2019

WOLVERINE ESCROW, LLC, as the Initial Issuer

By: _____
Name:
Title:

[Signature Page to Indenture]

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Trustee

By: _____
Name:
Title:

[Signature Page to Indenture]

EXHIBIT A

FORM OF 144A, IAI AND REGULATION S 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]

[Insert the OID Legend, if applicable pursuant to the provisions of the Indenture]

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CUSIP: [144A: 97789L AA4] [Reg S: U9716L AA4] [IAI: 97789L AD8]
ISIN: [144A: US97789LAA44] [Reg S: USU9716LAA45] [IAI: US97789LAD82]

13.125% Senior Note due 2027

No. \$ _____

WOLVERINE ESCROW, LLC

promises to pay to _____ or registered assigns, the principal sum of
_____ DOLLARS [or such other principal sum
as shall be set forth in the Schedule of Exchanges of Interests in the Global Note attached hereto]¹

on November 15, 2027.

Interest Payment Dates: May 15 and November 15

Record Dates: May 1 and November 1

Dated:

¹ Insert in Global Notes only.

WOLVERINE ESCROW, LLC

By: _____
Name:
Title:

This is one of the Unsecured Notes referred to in the
within-mentioned Indenture:

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee

By: _____
Authorized Signatory

Dated:

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Back of Unsecured Note
13.125% Senior Note due 2027

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

(1) *INTEREST.* WOLVERINE ESCROW, LLC, a limited liability company organized under the laws of Delaware (the “*Initial Issuer*”), or its respective successors, promises to pay or cause to be paid interest on the principal amount of this Unsecured Note at the rate of 13.125% per annum from November 27, 2019 until maturity. The Issuer will pay interest semi-annually in arrears on May 15 and November 15 of each year commencing May 15, 2020 (each, an “*Interest Payment Date*”), or if any such day is not a Business Day, on the next succeeding Business Day to the Holders of record as of the close of business on the immediately preceding May 1 and November 1 (whether or not a Business Day). Interest on the Unsecured Notes will accrue from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from the date of original issuance of the Unsecured Notes.

Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

(2) *METHOD OF PAYMENT.* The Issuer will pay interest on the Unsecured Notes (except defaulted interest) to the Persons who are registered Holders of Unsecured Notes at the close of business on May 15 and November 15 (whether or not a Business Day) immediately preceding the Interest Payment Date, even if such Unsecured 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. The Unsecured Notes will be payable as to principal, premium, if any, and interest (and defaulted interest, if any), if any, at the office or agency of the Paying Agent and Registrar within the contiguous United States, or, at the option of the Issuer, payment of interest, if any, due on an Interest Payment Date 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, premium, if any, on, and interest, if any, on, all Global Notes and, with respect to interest due on an Interest Payment Date, all other Unsecured Notes the Holders of which will have provided wire transfer instructions to the Paying Agent at least fifteen (15) Business Days prior to the Interest Payment Date. Such payments will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

(3) *PAYING AGENT AND REGISTRAR.* Initially, The Bank of New York Mellon Trust Company, N.A., the Trustee under the Indenture, will act as Paying Agent and Registrar. The Issuer may change the Paying Agent or Registrar without prior notice to the Holders of the Unsecured Notes. The Issuer or any of its Subsidiaries may act as Paying Agent or Registrar.

(4) *INDENTURE.* The Issuer issued the Unsecured Notes under an Indenture dated as of November 27, 2019 (the “*Indenture*”) among the Initial Issuer, the Guarantors party thereto from time to time and the Trustee. The terms of the Unsecured Notes include those stated in the Indenture. The Unsecured Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this Unsecured Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Unsecured Notes are unsecured obligations of the Issuer. The Indenture does not limit the aggregate principal amount of Unsecured Notes that may be issued thereunder.

(5) *OPTIONAL REDEMPTION AND REDEMPTION FOR TAX REASONS.*

(a) At any time prior to November 15, 2022, the Issuer may on any one or more occasions redeem up to 35% of the aggregate principal amount of Unsecured Notes (calculated after giving effect to the issuance of any Additional Unsecured Notes) issued under the Indenture at a redemption price equal to 113.125% of the principal amount of Unsecured Notes redeemed, *plus* accrued and unpaid interest, if any, on the Unsecured Notes redeemed, to (but not including) the date of redemption (subject to the right of Holders of Unsecured Notes on a relevant record

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date to receive interest on an Interest Payment Date occurring on or prior to the redemption date), with the cash proceeds of any Equity Offering; *provided that*:

(1) at least 65% of the aggregate principal amount of the Unsecured Notes (including any Additional Unsecured Notes) then outstanding remain outstanding immediately after the occurrence of each such redemption (except to the extent otherwise repurchased or redeemed in accordance with the terms of this Indenture); and

(2) the redemption occurs within 180 days of the date of the closing of such Equity Offering.

(b) At any time prior to November 15, 2022, the Issuer may on any one or more occasions redeem all or a portion of the Unsecured Notes at a redemption price equal to 100% of the principal amount of the Unsecured Notes redeemed, plus the Applicable Premium as of the date of the redemption notice, and accrued and unpaid interest, if any, on the Unsecured Notes redeemed, to (but not including) the date of redemption, subject to the rights of Holders of Unsecured Notes on a relevant record date to receive interest due on an Interest Payment Date occurring on or prior to the redemption date.

(c) At any time, in connection with any offer to purchase the Unsecured Notes (including pursuant to a Change of Control Offer, Alternate Offer or Asset Sale Offer), if Holders of at least 90% in aggregate principal amount of the Unsecured Notes outstanding tender such Unsecured Notes in such offer, the Issuer or such other Person, upon notice given not more than 60 days following such purchase pursuant to such offer, may redeem all of the remaining Unsecured Notes of such series at a price in cash equal to the price offered to each Holder in such prior offer, plus, to the extent not included in the prior offer payment, accrued and unpaid interest, if any, on the Unsecured Notes redeemed, to (but not including) the date of redemption, subject to the rights of Holders of Unsecured Notes on a relevant record date to receive interest due on an Interest Payment Date occurring on or prior to the redemption date. In determining whether the holders of at least 90% in aggregate principal amount of the outstanding Unsecured Notes have validly tendered and not validly withdrawn Unsecured Notes in an offer, Unsecured Notes owned by an Affiliate of the Issuer or by funds controlled or managed by any Affiliate of the Issuer, or any successor thereof, shall be deemed to be outstanding for the purposes of such offer.

(d) Except pursuant to the preceding paragraphs, the Unsecured Notes will not be redeemable at the Issuer's option prior to November 15, 2022.

(f) On or after November 15, 2022, the Issuer may on any one or more occasions redeem all or a portion of the Unsecured Notes at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest, if any, on the Unsecured Notes redeemed, to (but not including) the applicable date of redemption, if redeemed during the 12-month period beginning on November 15 of the years indicated below, subject to the rights of Holders of Unsecured Notes on a relevant record date to receive interest on an Interest Payment Date occurring on or prior to the redemption date:

Year	Percentage
2022.....	109.844%
2023.....	106.563%
2024.....	103.281%
2025 and thereafter.....	100.000%

(g) Any redemption of Unsecured Note may, at the Issuer's discretion, be performed by another Person and be subject to one or more conditions precedent. In addition, if any redemption is subject to satisfaction of one or more conditions precedent, the related notice of redemption shall state that, in the Issuer's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied (or waived by the Issuer in its sole discretion), or such redemption may not occur and such notice may be modified or rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Issuer in its sole discretion) by the redemption date, or by the redemption date so delayed (which may exceed 60 days from the date of the

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redemption notice in such case). Such notice of redemption may be extended if such conditions precedent have not been met by providing notice to the Holders of the Unsecured Note. Unsecured Note called for redemption become due on the applicable redemption date (to the extent such redemption date occurs and as such date may be extended or delayed). Unless the Issuer defaults in the payment of the redemption price, interest will cease to accrue on the Unsecured Note or portions thereof called for redemption on the applicable redemption date (whether or not a Business Day).

Unless the Issuer defaults in the payment of the redemption price, interest will cease to accrue on the Unsecured Notes or portions thereof called for redemption on the applicable redemption date (whether or not a Business Day).

(h) The Issuer may redeem the Unsecured Notes, in whole but not in part, at any time upon giving not less than 30 nor more than 60 days' prior notice to the holders, with a copy to the Trustee (which notice will be irrevocable and must be given in accordance with the procedures set forth in Section 3.03 of the Indenture) at a redemption price equal to 100% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date fixed by the Issuer for redemption and all Additional Amounts (if any) then due and which will become due on the Tax Redemption Date as a result of the redemption or otherwise (subject to the right of Holders as of the close of business on the relevant record date to receive interest due on the relevant Interest Payment Date and Additional Amounts (if any) in respect thereof), if on the next date on which any amount would be payable in respect of the Unsecured Notes, the Issuer or a U.K. Guarantor is or would be required to pay Additional Amounts (but, in the case of a U.K. Guarantor, only if the payment giving rise to such requirement cannot be made by the Issuer or another Guarantor that can make such payment without the obligation to pay Additional Amounts), and such obligation cannot be avoided by taking reasonable measures available to them (including the appointment of a new paying agent where this would be reasonable) (for which purpose, for the avoidance of doubt, none of the Issuer, any Guarantor will be required to take any measures that would result in the imposition on them of any material legal or regulatory burden or the incurrence by them of any material additional costs, or would otherwise result in any material adverse consequences), as a result of a Change in Tax Laws.

(6) *MANDATORY REDEMPTION.* Except in the case of a Special Mandatory Redemption, the Issuer will not be required to make mandatory redemption or sinking fund payments with respect to the Unsecured Notes.

(7) *CERTAIN REPURCHASE EVENTS.*

(a) If a Change of Control occurs, the Issuer may be required to offer to repurchase the Unsecured Notes as required by the Indenture.

(b) Following the occurrence of certain Asset Sales, the Issuer may be required to offer to repurchase a certain amount of the Unsecured Notes as required by the Indenture.

(8) *ADDITIONAL AMOUNTS*

(a) All payments made under or with respect to the Unsecured Notes or the Unsecured Note Guarantees will be made free and clear of and without deduction for, or on account of, any present or future taxes unless the withholding or deduction of such taxes is then required by applicable law. If any deduction or withholding for, or on account of, any taxes imposed or levied by or on behalf of any jurisdiction in which the Issuer or any Guarantor (including any successor entities) is then incorporated, engaged in business (directly or indirectly) or resident for tax purposes, or any political subdivision thereof or therein or any jurisdiction from or through which payment is made, will at any time be required to be made from, any payments made under or with respect to the Unsecured Notes or any Unsecured Note Guarantee, including, without limitation, payments of principal, redemption price, purchase price, interest or premium, the Issuer or the Guarantor will be entitled to make such deduction or withholding and will timely pay the full amount deducted or withheld to the relevant governmental authority in accordance with applicable law and will pay such additional amounts as may be necessary in order that the net amounts received and retained in respect of such payments by each Holder or Beneficial Owner of the Unsecured Notes (including Additional Amounts) after such withholding, deduction or imposition will be equal to

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the respective amounts that would have been received and retained in respect of such payments in the absence of such withholding, deduction or imposition; *provided, however*, that no Additional Amounts will be payable with respect to:

(1) any taxes that would not have been imposed but for the Holder or the Beneficial Owner of the Unsecured Notes being a citizen or resident or national of, or incorporated in or carrying on a business in, or having any other connection with, the relevant Tax Jurisdiction in which such taxes are imposed other than by the mere acquisition, holding or disposition of such Unsecured Notes or any Unsecured Note Guarantee or enforcement or exercise of rights thereunder or the receipt of payments in respect thereof;

(2) any taxes that are imposed or withheld as a result of the failure of the Holder or Beneficial Owner of the Unsecured Notes to comply with any reasonable written request, made to the Holder or Beneficial Owner in writing at least 60 days before any such withholding or deduction would be payable, by the Issuer to provide timely or accurate information concerning the nationality, residence or identity of such Holder or Beneficial Owner or to make any valid and timely declaration or similar claim or satisfy any certification information or other reporting requirement (to the extent such Holder or Beneficial Owner is legally entitled to do so), which is required or imposed by a statute, treaty, regulation or administrative practice of the relevant Tax Jurisdiction as a precondition to exemption from all or part of such taxes;

(3) any taxes imposed or withheld as a result of any Unsecured Note being presented for payment (where presentation is required) more than 30 days after the relevant payment is first made available for payment to the Holder (except to the extent that the Holder would have been entitled to Additional Amounts had the Unsecured Note been presented on the last day of such 30-day period);

(4) any estate, inheritance, gift, sale, transfer, personal property or similar tax or assessment;

(5) any taxes payable other than by deduction or withholding from payments under, or with respect to, the Unsecured Notes;

(6) any taxes imposed on or with respect to any payment by the Issuer to the Holder if such Holder is a fiduciary of a Beneficial Owner or any person other than the sole Beneficial Owner of such payment to the extent that taxes would not have been imposed on such payment had such Beneficial Owner been the Holder of such Unsecured Note;

(7) any taxes withheld or deducted pursuant to an agreement described in Section 1471(b) of the Code, or otherwise pursuant to Sections 1471 through 1474 of the Code (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or agreements thereunder, official interpretations thereof, or any law implementing an intergovernmental approach thereto, except to the extent that such taxes result from a failure of any paying agent to comply with FATCA; or

(8) any combination of (a)(1) through (7).

(b) In addition to Section 8(a) above, the Issuer and the Guarantors will also pay and indemnify each of the Holders and the Trustee for any present or future stamp, issue, registration, transfer, court or documentary taxes, or any other excise or property taxes, charges or similar levies or taxes that are levied by any jurisdiction on the issuance, execution, delivery, registration or enforcement of any of the Unsecured Notes, any Unsecured Note Guarantee or any other document or instrument referred to therein, or to the receipt of any payments with respect thereto.

(c) If the Issuer or any Guarantor becomes aware that it will be obligated to pay Additional Amounts with respect to any payment under or with respect to the Unsecured Notes, the Issuer or the applicable Guarantor

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will deliver to the Trustee on a date that is at least 30 days prior to the date of that payment (unless the obligation to pay Additional Amounts arises after the 30th day prior to that payment date, in which case the Issuer or the applicable Guarantor shall notify the Trustee in writing promptly thereafter) an Officer's Certificate stating the fact that Additional Amounts will be payable and the amount estimated to be so payable. The Officer's Certificate must also set forth any other information reasonably necessary to enable the paying agent to pay Additional Amounts on the relevant payment date. The Trustee will be entitled to rely solely on such Officer's Certificate as conclusive proof that such payments are necessary. The Issuer or the applicable Guarantor will provide the Trustee with documentation reasonably satisfactory to the Trustee evidencing the payment of Additional Amounts.

(d) The Issuer or the applicable Guarantor will make all withholdings and deductions required by law and will remit the full amount deducted or withheld to the relevant tax authority in accordance with applicable law. The Issuer or the applicable Guarantor will use its reasonable efforts to obtain tax receipts from each tax authority evidencing the payment of any taxes so deducted or withheld. The Issuer or the applicable Guarantor will furnish to the Trustee, within a reasonable time after the date the payment of any taxes so deducted or withheld is made, certified copies of tax receipts evidencing payment by the Issuer or the applicable Guarantor or if, notwithstanding the use of reasonable efforts to obtain receipts, receipts are not obtained, other evidence of payments. The Issuer or the applicable Guarantor shall attach to each certified copy or other evidence, as applicable, a certificate stating (x) that the amount of tax evidenced by the certified copy was paid in connection with payments under or with respect to the Unsecured Notes or Unsecured Note Guarantees then outstanding upon which such taxes were due and (y) the amount of such withholding tax paid per \$1,000 of principal amount of the Unsecured Notes.

(e) Whenever, in any context, any payment of amounts based upon the principal amount of the Unsecured Notes or of principal, interest or of any other amount payable under, or with respect to, any of the Unsecured Notes or Unsecured Note Guarantees is mentioned in this Indenture, such mention shall be deemed to include mention of the payment of Additional Amounts to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

(f) The obligations of this Section 8 will survive any termination, defeasance or discharge of the the Indenture, any transfer by a Holder or beneficial owner of its Unsecured Notes and will apply, *mutatis mutandis*, to any successor person to the Issuer or any Guarantor.

(9) *NOTICE OF REDEMPTION.* Notices for redemption shall be as set forth in Section 3.03 of the Indenture.

(10) *DENOMINATIONS, TRANSFER, EXCHANGE.* The Unsecured Notes are in registered form in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The transfer of Unsecured Notes may be registered and Unsecured 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 in connection with a transfer of Unsecured Notes. Holders will be required to pay all taxes due on transfer. The Issuer need not exchange or register the transfer of any Unsecured Note or portion of an Unsecured Note selected for redemption, except for the unredeemed portion of any Unsecured Note being redeemed in part. Also, the Issuer need not exchange or register the transfer of any Unsecured Notes for a period of 15 days before a selection of Unsecured Notes to be redeemed.

(11) *PERSONS DEEMED OWNERS.* The registered Holder of an Unsecured Note may be treated as the owner of it for all purposes. Only registered Holders have rights under the Indenture.

(12) *AMENDMENT, SUPPLEMENT AND WAIVER.* Subject to certain exceptions, the Indenture, the Escrow Agreement, the Unsecured Notes or any Unsecured Note Guarantee may be amended, supplemented or waived in accordance with Article 9 of the Indenture.

(13) *DEFAULTS AND REMEDIES.* The Unsecured Notes are subject to the Defaults and Events of Default set forth in Article 6 of the Indenture. The Issuer is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Issuer is required, upon becoming aware of any Default or Event

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of Default (unless such Default or Event of Default has been cured or waived), to deliver to the Trustee a statement specifying such Default or Event of Default as further provided in Section 4.04 of the Indenture.

(14) *TRUSTEE DEALINGS WITH ISSUER.* The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Issuer or its Affiliates, and may otherwise deal with the Issuer or its Affiliates, as if it were not the Trustee.

(15) *NO RECOURSE AGAINST OTHERS.* No manager, managing director, director, officer, employee, incorporator or equity holder, including members, of the Issuer, Holdings, any Subsidiary or any direct or indirect parent of the Issuer, as such, will have any liability for any obligations of the Issuer or the Guarantors under the Unsecured Notes, the Indenture, the Unsecured Note Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Unsecured Notes by accepting an Unsecured Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Unsecured Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

(16) *AUTHENTICATION.* This Unsecured Note will not be valid until authenticated by the manual signature of an authorized signatory of the Trustee or an authenticating agent.

(17) *ABBREVIATIONS.* Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (=tenants by the entirety), JT TEN (=joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(19) *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 Unsecured 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 Unsecured Notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(19) *GOVERNING LAW.* THE LAWS OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUCT THE INDENTURE, THIS NOTE 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.

The Issuer will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Wolverine Escrow, LLC
c/o Platinum Equity Advisors, LLC
360 North Crescent Drive, South Building
Beverly Hills, CA 90210
Facsimile: (310) 712-1863
Attention: Legal Department

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ASSIGNMENT FORM

To assign this Unsecured Note, fill in the form below:

(I) or (we) assign and transfer this Unsecured Note to: _____
(Insert assignee's 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 _____
attorney to transfer this Unsecured Note on the books of the Issuer. The attorney may substitute another to act for him.

Date: _____

Your Signature:

(Sign exactly as your name appears on the
face of this Unsecured Note)

Signature Guarantee*: _____

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

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OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Unsecured Note purchased by the Issuer pursuant to Section 4.10 or Section 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 the Unsecured 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:

\$_____ (\$2,000 or an integral multiple of \$1,000 in excess thereof, *provided* that the unpurchased portion of the Unsecured Note shall be in a minimum principal amount of \$2,000.)

Date: _____

Your Signature:

(Sign exactly as your name appears on the
face of this Unsecured Note)

Tax Identification No.: _____

Signature Guarantee*: _____

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

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SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE¹

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

<u>Date of Exchange/Transfer</u>	<u>Amount of decrease in Principal Amount of this Global Note</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 signatory of Trustee or Custodian</u>
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¹ This schedule should be included only if the Unsecured Note is issued in global form.

EXHIBIT B

[FORM OF CERTIFICATE OF TRANSFER]

[Wesco Aircraft Holdings, Inc.][Wolverine Escrow, LLC]
 c/o Platinum Equity Advisors, LLC
 360 North Crescent Drive, South Building
 Beverly Hills, CA 90210
 Facsimile: (310) 712-1863
 Attention: Legal Department

The Bank of New York Mellon Trust Company, N.A.
 2 N. LaSalle Street – Suite 700
 Chicago, IL 60602
 Fax: (312) 827-8542
 Attention: Corporate Trust Administration

Re: 13.125% Senior Notes due 2027

Reference is hereby made to the Indenture, dated as of November 27, 2019 (the “*Indenture*”), among Wolverine Escrow, LLC, a limited liability company organized under the laws of the state of Delaware (the “*Initial Issuer*”), the Guarantors party thereto from time to time and The Bank of New York Mellon Trust Company, N.A., as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the “*Transferor*”) owns and proposes to transfer the Unsecured Note[s] or interest in such Unsecured Note[s] specified in Annex A hereto, in the principal amount of \$ _____ in such Unsecured Note[s] or interests (the “*Transfer*”), to _____ (the “*Transferee*”), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. ☐ **Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Restricted Definitive Note pursuant to Rule 144A.** The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the “*Securities Act*”), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably 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 Private Placement Legend printed on the 144A Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

2. ☐ **Check if Transferee will take delivery of a beneficial interest in the Regulation S Temporary Global Note, the Regulation S Permanent Global Note or a Restricted Definitive Note pursuant to Regulation S.** The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction

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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 Private Placement Legend printed on the Regulation S Permanent Global Note, the Regulation S Temporary Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

3. ☐ **Check and complete if Transferee will take delivery of a beneficial interest in a Restricted Definitive Note or an IAI Global 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;

or

(d) ☐ such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit F to the Indenture and (2) an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in 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 be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Notes and in the Indenture and the Securities Act.

4. ☐ **Check if Transferee will take delivery 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

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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.

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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: _____

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ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

- (a) ☐ a beneficial interest in the:
- (i) ☐ 144A Global Note (CUSIP _____), or
- (ii) ☐ Regulation S Global Note (CUSIP _____), or
- (iii) ☐ IAI 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
- (iii) ☐ IAI Global Note (CUSIP _____), or
- (b) ☐ a Restricted Definitive Note;
- (c) ☐ an Unrestricted Definitive Note;

in accordance with the terms of the Indenture.

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EXHIBIT C

[FORM OF CERTIFICATE OF EXCHANGE]

[Wesco Aircraft Holdings, Inc.][Wolverine Escrow, LLC]
 c/o Platinum Equity Advisors, LLC
 360 North Crescent Drive, South Building
 Beverly Hills, CA 90210
 Facsimile: (310) 712-1863
 Attention: Legal Department

The Bank of New York Mellon Trust Company, N.A.
 2 N. LaSalle Street – Suite 700
 Chicago, IL 60602
 Fax: (312) 827-8542
 Attention: Corporate Trust Administration

Re: 13.125% Senior Notes due 2027

(CUSIP _____)

Reference is hereby made to the Indenture, dated as of November 27, 2019 (the “*Indenture*”), among Wolverine Escrow, LLC, a limited liability company organized under the laws of the state of Delaware (the “*Initial Issuer*”), the Guarantors party thereto from time to time and The Bank of New York Mellon Trust Company, N.A., as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the “*Owner*”) owns and proposes to exchange the Unsecured Note[s] or interest in such Unsecured Note[s] specified herein, in the principal amount of \$_____ in such Unsecured Note[s] or interests (the “*Exchange*”). In connection with the Exchange, the Owner hereby certifies that:

1. **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, ☐ IAI 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.

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1. **Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes.**

(a) ☐ **Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) ☐ **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

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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: _____

EXHIBIT D

[] SUPPLEMENTAL INDENTURE (this "*Supplemental Indenture*"), dated as of _____, among _____ (the "*Guaranteeing Subsidiary*"), a subsidiary of Wesco Aircraft Holdings, Inc., a corporation organized under the laws of the state of Delaware (as successor by merger to Wolverine Escrow, LLC, a limited liability company organized under the laws of the state of Delaware) (the "*Issuer*"), and The Bank of New York Mellon Trust Company, N.A., as trustee (in such capacity, the "*Trustee*") under the Indenture referred to below.

WITNESSETH

WHEREAS, the Issuer has heretofore executed and delivered to the Trustee an indenture (as it may be amended, restated, supplemented or otherwise modified from time to time, the "*Indenture*"), dated as of November 27, 2019, providing for the issuance of 13.125% Senior Notes due 2027 (the "*Secured Notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guarantors shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guarantors shall unconditionally guarantee all of the Issuer's obligations under the Unsecured Notes and the Indenture on the terms and conditions set forth herein and under the Indenture (the "*Unsecured Note Guarantee*");

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture without the consent of Holders of the Unsecured Notes; and

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

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. GUARANTEE.

(a) Each Guarantor hereby becomes a party to the Indenture as a Guarantor and as such will have all of the rights and be subject to all of the obligations and agreements of a Guarantor under the Indenture, effective upon the execution and delivery of this Supplemental Indenture.

(b) Each Guarantors hereby provides an unconditional Guarantee on the terms and subject to the conditions set forth in the Unsecured Note Guarantee and in the Indenture including but not limited to Article 10 thereof.

[To include any local law limitations of the jurisdiction of organization of such Guarantors if not already included in the Indenture]

3. NO RECOURSE AGAINST OTHERS. No manager, managing director, director, officer, employee, incorporator or equity holder, including members, of the Issuer, any Subsidiary or any direct or indirect parent of the Issuer, as such, will have any liability for any obligations of the Issuer or the Guarantors under the Unsecured Notes, the Indenture, the Unsecured Note Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Unsecured Notes by accepting an Unsecured Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Unsecured Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

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4. NEW YORK LAW TO GOVERN. THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUCE THIS SUPPLEMENTAL INDENTURE 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.

5. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of a signature page to this Supplemental Indenture by facsimile, email or other electronic means shall be effective as delivery of a manually executed counterpart of this Supplemental Indenture.

6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals and statements contained herein, all of which recitals are made solely by the Guarantors, and the Trustee assumes no responsibility for their correctness.

8. BENEFITS ACKNOWLEDGED. The Guarantors' Guarantee is subject to the terms and conditions in the Indenture. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Indenture and this Supplemental Indenture and that the guarantee and waivers made by it pursuant to this Guarantee are knowingly made in contemplation of such benefits.

9. SUCCESSORS. All agreements of the Guarantors in this Supplemental Indenture shall bind its successors, except as otherwise provided in the Indenture. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

10. RATIFICATION OF INDENTURE; SUPPLEMENTAL INDENTURE PART OF INDENTURE. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder heretofore or hereafter authenticated and delivered shall be bound hereby.

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

Dated: _____

[GUARANTORS]

By: _____
Name:
Title:

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Trustee

By: _____
Name:
Title:

EXHIBIT E

[FORM OF CERTIFICATE OF BENEFICIAL OWNERSHIP]

The Bank of New York Mellon Trust Company, N.A.
2 N. LaSalle Street – Suite 700
Chicago, IL 60602
Fax: (312) 827-8542
Attention: Corporate Trust Administration

Re: \$525,000,000 aggregate principal amount of 13.125% Senior Notes due 2027 (the “*Unsecured Notes*”) of Wesco Aircraft Holdings, Inc. (as successor by merger to Wolverine Escrow, LLC) (the “*Issuer*”)

Ladies and Gentlemen:

This is to certify that based solely on certifications we have received in writing, by tested telex or by electronic transmission from institutions appearing in our records as persons being entitled to a portion of the principal amount of Unsecured Notes represented by a Regulation S Temporary Global Note issued under the Indenture, dated as of November 27, 2019, among the Issuer, the guarantors party thereto from time to time, and The Bank of New York Mellon Trust Company, N.A., as trustee, as supplemented, that as of the date hereof, \$_____ principal amount of Unsecured Notes represented by the Regulation S Temporary Global Note being submitted herewith for exchange is beneficially owned by persons that are either (i) non-U.S. persons (within the meaning of Regulation S under the Securities Act of 1933, as amended) or (ii) U.S. persons that purchased the Unsecured Notes in a transaction that did not require registration under the Securities Act of 1933, as amended.

We further certify that (i) we are not submitting herewith for exchange any portion of such Regulation S Temporary Global Note excepted in such certifications and (ii) as of the date hereof we have not received any notification from any institution to the effect that the statements made by such institution with respect to any portion of such Regulation S Temporary Global Note submitted herewith for exchange are no longer true and cannot be relied upon as of the date hereof.

You and the Issuer are entitled to rely upon this certificate and are irrevocably authorized to produce this certificate or a copy hereof to any interested party in any administrative or legal proceeding or official inquiry with respect to the matters covered hereby.

Yours faithfully,

[Name of DTC Participant]

By: _____
Name:
Title:
Address:

Date: _____

EXHIBIT F

[FORM OF CERTIFICATE FROM
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR]

[Wesco Aircraft Holdings, Inc.][Wolverine Escrow, LLC]
c/o Platinum Equity Advisors, LLC
360 North Crescent Drive, South Building
Beverly Hills, CA 90210
Facsimile: (310) 712-1863
Attention: Legal Department

The Bank of New York Mellon Trust Company, N.A.
2 N. LaSalle Street – Suite 700
Chicago, IL 60602
Fax: (312) 827-8542
Attention: Corporate Trust Administration

Re: 13.125% Senior Notes due 2027

Reference is hereby made to the Indenture, dated as of November 27, 2019 (the “*Indenture*”), among Wolverine Escrow, LLC, a limited liability company organized under the laws of the state of Delaware, the Guarantors party thereto from time to time and The Bank of New York Mellon Trust Company, N.A., as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$_____ aggregate principal amount of a Definitive Note (the “*Notes*”), we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the “*Securities Act*”).
2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Issuer or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a “qualified institutional buyer” (as defined therein), (C) to an institutional “accredited investor” (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Issuer a signed letter substantially in the form of this letter and an Opinion of Counsel in form reasonably acceptable to the Issuer to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144 under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any Person purchasing the Definitive Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.
3. We understand that, on any proposed resale of the Notes, we will be required to furnish to you and the Issuer such certifications, legal opinions and other information as you and the Issuer may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional “accredited investor” (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes purchased by us for our own account or for one or more accounts (each of which is an institutional “accredited investor”) as to each of which we exercise sole investment discretion.

You and the Issuer are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Insert Name of Accredited Investor]

By: _____
Name:
Title:

Dated: _____