EXIDE TECHNOLOGIES
Form S-4
June 06, 2011

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**As filed with the Securities and Exchange Commission on June 6, 2011**
**Registration No. 333-**

**Securities and Exchange Commission**
**Washington, D.C. 20549**

**Form S-4**
**REGISTRATION STATEMENT**
**UNDER**
**THE SECURITIES ACT OF 1933**

**EXIDE TECHNOLOGIES**
*(Exact name of registrant as specified in its charter)*

| **Delaware** | **3690** | **23-055273** |
|---|---|---|
| *(State or other jurisdiction of incorporation or organization)* | *(Primary Standard Industrial Classification Code Number)* | *(I.R.S. Employer Identification Number)* |

**13000 Deerfield Parkway, Building 200**
**Milton, Georgia 30004**
**(678) 566-9000**
*(Address, including zip code, and telephone number, including area code, of registrant s principal executive offices)*

**Barbara A. Hatcher**
**Executive Vice President and General Counsel**
**Exide Technologies**
**13000 Deerfield Parkway, Building 200**
**Milton, Georgia 30004**
**(678) 566-9000**
*(Name, address, including zip code, and telephone number, including area code, of agent for service)*

***With a copy to:***

**Timothy J. Melton**

**Joel T. May**
**Jones Day**
**77 West Wacker Drive**
**Chicago, Illinois 60601**
**(312) 782-3939**

**Approximate date of commencement of proposed sale to the public:** As soon as practicable on or after the effective date of this Registration Statement.

If the securities being registered on this Form are to be offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. o

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

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

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

| Large accelerated filer o | Accelerated filer þ | Non-accelerated filer o (Do not check if a smaller reporting company) | Smaller reporting company o |
|---|---|---|---|

**CALCULATION OF REGISTRATION FEE**

| **Title of Each Class of Securities to be Registered** | **Amount to be Registered** | **Proposed Maximum Offering Price per Unit** | **Proposed Maximum Aggregate Offering Price** | **Amount of Registration Fee(1)** |
|---|---|---|---|---|
| 85/8% Senior Secured Notes due 2018 | $675,000,000 | 100% | $675,000,000 | $78,367.50 |

(1) The registration fee has been calculated, in accordance with Rule 457(f)(2) under the Securities Act of 1933, based on the book value, calculated as of June 6, 2011, of the outstanding 85/8% Senior Secured Notes due 2018 to be cancelled in the exchange transaction hereunder.

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

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

**SUBJECT TO COMPLETION. DATED JUNE 6, 2011.**

**PRELIMINARY PROSPECTUS**

**Offer to Exchange**
**$675,000,000 Outstanding 85/8% Senior Secured Notes due 2018**
**for $675,000,000 Registered 85/8% Senior Secured Notes due 2018**

On January 25, 2011, we issued $675.0 million aggregate principal amount of restricted 85/8% senior secured notes due 2018 in a private placement exempt from the registration requirements under the Securities Act of 1933, or the Securities Act, which we refer to as the old notes.

**The exchange offer:**

We are offering to exchange a new issue of 85/8% senior secured notes due 2018, which we refer to as the new notes, for our outstanding old notes. We sometimes refer to the old notes and the new notes in this prospectus together as the notes.

Our offer to exchange old notes for new notes will be open until 5:00 p.m., New York City time, on , 2011, unless extended.

The exchange offer is subject to certain conditions, including that the exchange offer does not violate any law or applicable interpretation of any law by the staff of the Securities and Exchange Commission, or SEC.

You may withdraw your tender of old notes at any time before the exchange offer expires.

We will not receive any cash proceeds from the exchange offer.

We do not intend to list the new notes on any national securities exchange or seek approval through any automated quotation system, and no active market currently exists for the old notes or is anticipated for the new notes.

**The new notes:**

The terms of the new notes offered in the exchange offer are substantially identical to the terms of the old notes, except that the new notes will be registered under the Securities Act, and will not be subject to the restrictions on transfer or related provisions relating to additional interest applicable to the old notes.

Interest on the new notes will accrue at a rate of 85/8% per year, payable on February 1 and August 1 of each year, beginning on , 2011.

On the issue date, the new notes will not have the benefit of any guarantees from our subsidiaries.

The new notes will be our senior secured obligations, will rank equally in right of payment with all of our existing and future senior obligations, and will rank senior to all of our existing and future indebtedness that is expressly subordinated to the new notes.

The new notes will bear a different CUSIP or ISIN number from the old notes and will not entitle their holders to registration rights.

Each broker-dealer that receives new notes for its own account pursuant to this exchange offer must acknowledge that it will deliver a prospectus in connection with any resale of the new notes. The accompanying letter of transmittal relating to the exchange offer states that by so acknowledging and delivering a prospectus, a broker-dealer will not be deemed to admit that it is an underwriter within the meaning of the Securities Act. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of new notes received in exchange for old notes where such old notes were acquired by such broker-dealer as a result of market-making activities or other trading activities. We have agreed that, for a period of up to 180 days after the date the registration statement becomes effective, we will provide copies of this prospectus to broker-dealers upon request for use in connection with any such resale. See Plan of Distribution.

**An investment in the new notes involves risks. You should carefully review the risk factors beginning on page 9 of this prospectus.**

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

Prospectus dated , 2011.

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**We have not authorized anyone to give you any information or to make any representations about the exchange offer we discuss in this prospectus other than those contained in this prospectus. If you are given any information or representation about this matter that is not discussed in this prospectus, you must not rely on that information. This prospectus is not an offer to sell or a solicitation of an offer to buy securities anywhere or to anyone where or to whom we are not permitted to offer to sell securities under applicable law.**

**In determining whether to participate in the exchange offer, investors must rely on their own examination of the issuer and the terms of the new notes and the exchange offer, including the merits and risks involved. The securities offered by this prospectus have not been recommended by any federal or state securities commission or regulatory authority. Furthermore, the foregoing authorities have not confirmed the accuracy or determined the adequacy of this prospectus. Any representation to the contrary is a criminal offense. Except as otherwise indicated, this prospectus speaks as of the date of this prospectus.**

**This prospectus incorporates important business information about us that is not included in or delivered with this prospectus but that is contained in documents that we file with the SEC. You may obtain copies of these documents that are incorporated by reference into this prospectus, without charge, from the website maintained by the SEC at http://www.sec.gov, as well as other sources. See Where You Can Find Additional Information and Incorporation of Information by Reference.**

**You should rely only on the information included in or incorporated by reference into this prospectus. We have not authorized anyone else to provide you with different information. These securities are not being offered in any state where the offer is not permitted. You should not assume that the information in this prospectus or the documents incorporated by reference is accurate as of any date other than the date on the front of those documents.**

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## MARKET AND INDUSTRY DATA

This prospectus and the documents incorporated by reference herein include estimates regarding market and industry data and forecasts based on market research, consultant surveys, publicly available information, industry publications, analyst reports and surveys and our own estimates based on our management s knowledge of and experience in the markets and industry in which we operate. We believe these estimates are reasonable as of the date of this prospectus. However, we have not independently verified any of the data from third-party sources and have not ascertained the underlying economic assumptions relied upon therein. Forecasts and other forward-looking information obtained from these sources are subject to the same qualifications and uncertainties as the other forward-looking statements in this prospectus.

## CERTAIN TERMS USED IN THIS PROSPECTUS

Unless otherwise indicated or required by the context, the terms (1) Exide Technologies and the Issuer refer to Exide Technologies, the issuer of the notes (but not any of its subsidiaries), (2) Exide, we, our, us, and the Company re Exide Technologies and all of its subsidiaries, and (3) Exide C.V. refers to Exide Global Holdings Netherlands C.V., our wholly owned European subsidiary.

## WHERE YOU CAN FIND ADDITIONAL INFORMATION

In connection with the exchange offer, we have filed with the SEC a registration statement on Form S-4 under the Securities Act relating to the new notes to be issued in the exchange offer. As permitted by SEC rules, this prospectus omits information included in the registration statement. For a more complete understanding of the exchange offer, you should refer to the registration statement, including its exhibits.

You may read and copy any reports or other information that we file with the SEC. Such filings are available to the public over the Internet at the SEC s website at www.sec.gov. The SEC s website is included in this prospectus as an inactive textual reference only. You may also read and copy any document that we file with the SEC at its public reference room at 100 F Street, N.E., Washington D.C. 20549. You may obtain information on the operation of the public reference room by calling the SEC at 1-800-SEC-0330. You may also obtain a copy of the exchange offer s registration statement and other information that we file with the SEC at no cost by calling us or writing to us at the following address or telephone number:

Exide Technologies
13000 Deerfield Parkway, Building 200
Milton, Georgia 30004
Attention: General Counsel
Telephone: (678) 566-9000

## INCORPORATION OF INFORMATION BY REFERENCE

We are incorporating by reference the information contained in documents that we have filed with the SEC, which means that we are disclosing important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and the information that we subsequently file with the SEC will automatically update and supersede information in this prospectus and in our other filings with the SEC. We incorporate by reference the documents listed below, which we have already filed with the SEC, and any future filings we make with the SEC under Section 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934, or the

Exchange Act, after the date of the initial registration statement and prior to effectiveness of the registration statement, and prior to the termination of the offering under this prospectus.

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We incorporate by reference in this prospectus the following documents or information filed by us with the SEC (other than, in each case, documents or information (or portions thereof) deemed to have been furnished and not filed in accordance with SEC rules and regulations):

Annual Report on Form 10-K for the fiscal year ended March 31, 2011 and filed with the SEC on June 1, 2011; and

Current Report on Form 8-K filed on April 4, 2011.

We will provide to you a copy of any or all of the above filings that have been incorporated by reference into this prospectus, excluding exhibits to those filings, upon your request, at no cost. Any request may be made by writing or calling us at the following address or telephone number:

Exide Technologies
13000 Deerfield Parkway, Building 200
Milton, Georgia 30004
Attention: General Counsel
Telephone: (678) 566-9000

**To obtain timely delivery of any of our filings, agreements or other documents, you must make your request to us no later than , 2011. In the event that we extend the exchange offer, you must submit your request at least five business days before the expiration date of the exchange offer, as extended. See The Exchange Offer for more detailed information.**

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## PROSPECTUS SUMMARY

*This summary does not contain all of the information that may be important to you. You should carefully read this prospectus and the document incorporated by reference herein before making an investment decision. In particular, you should read the section titled Risk Factors and our audited consolidated financial statements and the related notes thereto included elsewhere in this prospectus or incorporated by reference herein.*

### Our Company

We are a global leader in stored electrical energy solutions, and one of the largest manufacturers and suppliers of lead-acid batteries for transportation and industrial applications in the world. We report our financial results through four principal business segments: Transportation Americas; Transportation Europe and Rest of World, or ROW; Industrial Energy Americas; and Industrial Energy Europe and ROW. The market for transportation batteries is divided between sales to original-equipment customers and aftermarket automotive manufacturers. Our industrial energy segments supply both motive power and network power applications. Our leading brands include *Absolyte*, *Centra*, *DETA*, *Exide*, *Exide Extreme*, *Exide NASCAR Select*, *Fulmen*, *Orbital*, *Sonnenschein*, and *Tudor*.

We are a Delaware corporation organized in 1966 to succeed to the business of a New Jersey corporation founded in 1888. Our principal executive offices are located at 13000 Deerfield Parkway, Building 200, Milton, Georgia 30004. Our phone number is (678) 566-9000.

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## Summary of the Terms of the Exchange Offer

The following summary describes the principal terms of the exchange offer, but is not intended to be complete. See the information under the heading The Exchange Offer in this prospectus for a more detailed description of the terms and conditions of the exchange offer. On January 25, 2011, we completed an offering of $675,000,000 aggregate principal amount of the old notes. The offering of the old notes was made only to qualified institutional buyers under Rule 144A and to persons outside the United States under Regulation S and, accordingly, was exempt from registration under the Securities Act.

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| New Notes offered | Up to $675,000,000 aggregate principal amount of new 85/8% senior secured notes due February 1, 2018, registered under the Securities Act.<br><br>The terms of the new notes offered in the exchange offer are substantially identical to the terms of the old notes, except that the new notes will be registered under the Securities Act and will not be subject to the restrictions on transfer or related provisions relating to additional interest applicable to the old notes. The new notes will bear a different CUSIP or ISIN number from the old notes and will not entitle their holders to registration rights. |
| The exchange offer | To exchange your old notes for new notes, you must properly tender them before the exchange offer expires. We will exchange all old notes that are validly tendered and not validly withdrawn. We will issue the new notes promptly after the exchange offer expires. See The Exchange Offer Terms of the Exchange Offer Procedures for Tendering. |
| Resale of the new notes | We believe the new notes that will be issued in the exchange offer may be resold by most investors without compliance with the registration and prospectus delivery provisions of the Securities Act, subject to certain conditions. See The Exchange Offer. |
| Registration Rights Agreement | We have undertaken the exchange offer pursuant to the terms of the registration rights agreement, or the registration rights agreement, entered into with the initial purchasers of the old notes in connection with the offer and sale of the old notes. See The Exchange Offer. |
| Consequences of failure to exchange the old notes | You will continue to hold old notes, which remain subject to their existing transfer restrictions, if:<br><br>you do not validly tender your old notes; or<br><br>you tender your old notes and they are not accepted for exchange.<br><br>With some limited exceptions, we will have no obligation to register the old notes after we consummate the exchange offer. See The Exchange Offer Terms of the Exchange Offer and The Exchange Offer Consequences of Failure to Exchange. |
| Expiration date | |

The exchange offer will expire at 5:00 p.m., New York City time, on , 2011, or the expiration date, unless we extend it, in which case expiration date means the latest date and time to which the exchange offer is extended.

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| Interest on the new notes | The new notes will accrue interest from the most recent date to which interest has been paid or provided for on the old notes or, if no interest has been paid on the old notes, from the date of original issue of the old notes. |
| Conditions to the exchange offer | The exchange offer is subject to several customary conditions. We will not be required to accept for exchange, or to issue new notes in exchange for, any old notes and may terminate or amend the exchange offer if we determine in our reasonable judgment that the exchange offer violates applicable law, any applicable interpretation of the SEC or its staff or any order of any governmental agency or court of competent jurisdiction. The foregoing conditions are for our sole benefit and may be waived by us. In addition, we will not accept for exchange any old notes tendered, and no new notes will be issued in exchange for any such old notes if:<br><br>at any time any stop order is threatened or in effect with respect to the registration statement of which this prospectus constitutes a part; or<br><br>at any time any stop order is threatened or in effect with respect to the qualification of the indenture governing the notes under the Trust Indenture Act of 1939.<br><br>See The Exchange Offer Terms of the Exchange Offer Conditions. We reserve the right to terminate or amend the exchange offer at any time prior to the expiration date upon the occurrence of any of the foregoing events. |
| Procedures for tendering old notes | If you wish to accept the exchange offer, you must submit required documentation and effect a tender of old notes pursuant to the procedures for book-entry transfer (or other applicable procedures), all in accordance with the instructions described in this prospectus and in the relevant letter of transmittal. See The Exchange Offer Terms of the Exchange Offer Procedures for Tendering, The Exchange Offer Terms of the Exchange Offer Book Entry Transfer and The Exchange Offer Terms of the Exchange Offer Guaranteed Delivery Procedures. |
| Guaranteed delivery procedures | If you wish to tender your old notes, but cannot properly do so prior to the expiration date, you may tender your old notes according to the guaranteed delivery procedures set forth in The Exchange Offer Terms of the Exchange Offer Guaranteed Delivery Procedures. |
| Withdrawal rights | Tenders of old notes may be withdrawn at any time prior to 5:00 p.m., New York City time, on the expiration date. To withdraw a tender of old notes, a written or facsimile transmission notice of withdrawal must be received by the exchange agent at its address set forth in The Exchange Offer Terms of the Exchange Offer Exchange Agent prior to 5:00 p.m. on the expiration date. |

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| Acceptance of old notes and delivery of new notes | Except in some circumstances, any and all old notes that are validly tendered in the exchange offer prior to 5:00 p.m., New York City time, on the expiration date will be accepted for exchange. |

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| | The new notes issued pursuant to the exchange offer will be delivered promptly following the expiration date. See The Exchange Offer Terms of the Exchange Offer Acceptance of Old Notes for Exchange; Delivery of New Notes. |
| Certain U.S. federal tax consequences | We believe that the exchange of the old notes for the new notes will not constitute a taxable exchange for U.S. federal income tax purposes. See Certain U.S. Federal Income Tax Considerations. |
| Exchange agent | Wells Fargo Bank, National Association, is serving as the exchange agent. |

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## The New Notes

The terms of the new notes offered in the exchange offer are identical in all material respects to the terms of the old notes, except that the new notes will:

- be registered under the Securities Act and therefore will not be subject to restrictions on transfer;
- not be subject to provisions relating to additional interest applicable to the old notes;
- bear a different CUSIP or ISIN number from the old notes;
- not entitle their holders to registration rights; and
- be subject to terms relating to book-entry procedures and administrative terms relating to transfers that differ from those of the old notes.

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| Issuer | Exide Technologies |
| New Notes | $675,000,000 aggregate principal amount of 85/8% senior secured notes due 2018. |
| Maturity Date | The new notes will mature on February 1, 2018. |
| Interest | Interest on the new notes will accrue at a rate of 85/8% per annum, payable semi-annually in arrears on February 1 and August 1, beginning , 2011, or from the most recent interest payment date on which we paid or provided for interest on the old notes. |
| Guarantees | On the issue date, the new notes will not have the benefit of any guarantees by our subsidiaries. Subject to certain conditions, the new notes may be guaranteed in the future by certain of the Issuer s future material domestic subsidiaries. |
| Ranking | The new notes will be the Issuer s senior secured obligations and:<br>will rank equally in right of payment with all of the Issuer s existing and future indebtedness that is not, by its terms, expressly subordinated in right of payment to the new notes;<br>will rank senior in right of payment to all of the Issuer s existing and future indebtedness that is, by its terms, expressly subordinated in right of payment to the new notes;<br>will be effectively senior in right of payment to all of the Issuer s existing and future indebtedness that is either (i) unsecured, or (ii) secured by a junior priority lien on the collateral securing the new notes, in each case, to the extent of the assets comprising the collateral; |

will be effectively subordinated in right of payment to all of the Issuer s existing and future indebtedness that is either secured by assets that are not part of the collateral securing the new notes or secured by a prior lien on the collateral securing the new notes (including, without limitation, the Issuer s existing asset-based revolving credit facility, or our ABL Facility), in each case, to the extent of such assets; and

will be structurally subordinated in right of payment to all existing and future indebtedness and other liabilities of any subsidiary of the Issuer that is not a guarantor of the new notes.

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| Security | The new notes will be secured, subject to certain exceptions and permitted liens, by (i) a first-priority lien on existing and after-acquired equipment, stock of direct subsidiaries, certain intercompany loans, and certain real property, such collateral collectively referred to as the notes priority collateral, which includes the Issuer s existing and after-acquired equipment, stock of the Issuer s direct subsidiaries, certain intercompany loans, certain real property, and substantially all of the Issuer s other assets that do not secure the ABL facility on a first-priority basis and (ii) a second-priority lien on the assets that secure the ABL Facility, or ABL priority collateral, which includes the Issuer s assets that secure the ABL facility on a first-priority basis, including the Issuer s receivables, inventory, intellectual property rights, deposit accounts, tax refunds, certain intercompany loans and certain other related assets and proceeds thereof. The ABL facility is secured by a first-priority lien on the ABL priority collateral and a second-priority lien on the notes priority collateral. See Description of Notes Security. The value of the collateral at any time will depend on market and other economic conditions, including the availability of suitable buyers for the collateral. |
| Intercreditor Agreement | The collateral agent for the notes and the collateral agent for the ABL facility entered into an intercreditor agreement with respect to the relative priorities of their respective security interests in the assets securing the notes and obligations and related guarantees under the ABL facility, and certain other matters relating to the administration of security interests. See Description of Notes Intercreditor Agreement. |
| Optional Redemption | On or after February 1, 2015, the Issuer may redeem all or part of the new notes at the redemption prices set forth under Description of Notes Redemption Optional Redemption on and after February 1, 2015. Prior to February 1, 2015, the Issuer may redeem all or part of the new notes at a redemption price equal to 100% of the principal amount of the new notes to be redeemed, plus accrued and unpaid interest, and a make-whole premium. In addition, prior to February 1, 2015, the Issuer may redeem, no more than once in any twelve-month period, up to 10% of the original aggregate principal amount of the new notes at a redemption price equal to 103% of the principal amount of the new notes to be redeemed, plus accrued and unpaid interest.<br><br>Prior to February 1, 2014, the Issuer may on one or more occasions redeem up to 35% of the aggregate principal amount of the new notes at a redemption price equal to 108.625% of the principal amount of the new notes to be redeemed, plus accrued and unpaid interest, with the net cash proceeds of certain equity offerings. The Issuer may make such a redemption only if, after such redemption, at least 65% of the aggregate principal amount of the new notes issued under the indenture remains outstanding and the Issuer issues a redemption notice in respect thereof not more than 60 days after the consummation of the equity offering closing. |

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| Change of Control; Asset Sales; Events of Loss | Upon a Change of Control (as described under Description of Notes Change of Control ), the Issuer will be required to make an offer to repurchase the new notes at a price equal to 101% of the principal amount thereof, plus accrued and unpaid interest to the date of repurchase.<br><br>If the Issuer, or its restricted subsidiaries, sells certain assets or experiences certain events of loss and does not reinvest the net proceeds in compliance with the indenture, the Issuer will be required to make an offer to use such proceeds to repurchase the new notes at a price equal to 100% of the principal amount thereof, plus accrued and unpaid interest to the date of repurchase. See Description of Notes Certain Covenants Limitation on Asset Sales and Description of Notes Certain Covenants Events of Loss. |
| Certain Covenants | The indenture governing the notes restricts the Issuer s and its restricted subsidiaries ability to, among other things:<br><br>incur or guarantee additional indebtedness or issue preferred stock;<br><br>pay dividends on, or make other distributions in respect of, their capital stock;<br><br>purchase or redeem capital stock or subordinated indebtedness;<br><br>make investments;<br><br>create liens or use assets as security;<br><br>enter into agreements restricting such restricted subsidiary s ability to pay dividends, make loans, or transfer assets to the Issuer or other restricted subsidiaries;<br><br>sell assets, including capital stock of subsidiaries;<br><br>engage in transactions with affiliates; and<br><br>consolidate or merge with or into other companies or transfer all or substantially all of their assets.<br><br>These covenants are subject to a number of important qualifications and exceptions. See Description of Notes Certain Covenants. |
| Use of Proceeds | We will not receive any cash proceeds from the issuance of the new notes. We are making the exchange offer solely to satisfy our obligations under the registration rights agreement that we entered into with the initial purchasers of the old notes at the time we issued and sold the old notes in a private offering. We received net proceeds of approximately $647.5 million, after deducting the initial purchasers discount and |

estimated offering expenses, from the sale of the old notes. We used the net proceeds from that offering:

to repay outstanding borrowings under our credit facilities existing prior to that offering;

to fund the tender offer and consent solicitation for any and all of our then-outstanding 101/2% senior secured notes due 2013, or

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| | our 2013 senior notes, and the redemption by us of all of our 2013 senior notes outstanding after the completion of the tender offer; and<br><br>for ongoing working capital and other general corporate purposes. See Use of Proceeds. |
| Listing | We do not intend to list the new notes on any national securities exchange or seek approval through any automated quotation system, and no active market currently is anticipated for the new notes. |
| Risk Factors | See Risk Factors and the other information included or incorporated in this prospectus for a discussion of factors you should carefully consider before deciding to exchange your old notes for new notes. |

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## RISK FACTORS

*Before deciding to participate in the exchange offer, you should consider carefully the risks and uncertainties described below and in Item 1A Risk Factors in our annual report on Form 10-K for the year ended March 31, 2011, together with all of the other information included or incorporated by reference in this prospectus, including financial statements and related notes. Any of the following risks could materially adversely affect our business, financial condition, cash flows or results of operations. In that case, you could lose part or all of your investment in the notes.*

### Risks Related to the Notes

***Our substantial indebtedness could materially adversely affect our financial health and prevent us from fulfilling our obligations under the notes.***

As of March 31, 2011, we had total indebtedness of approximately $758.2 million outstanding (excluding approximately $56.0 million of outstanding letters of credit) and up to $200.0 million of additional availability under the ABL facility, subject to certain borrowing base calculations and outstanding letters of credit.

Our substantial amount of indebtedness could have important consequences for our company and for holders of the notes. For example, it could:

- make it more difficult for us to satisfy our obligations with respect to our indebtedness, including the notes;
- limit our ability to borrow additional funds, or to sell assets to raise funds, if needed, for working capital, capital expenditures, acquisitions, or other purposes;
- increase our vulnerability to adverse economic and industry conditions;
- require us to dedicate a substantial portion of our cash flow from operations to service our debt, thereby reducing funds available for operations, future business opportunities, or other purposes, such as funding our working capital and capital expenditures;
- limit our flexibility in planning for, or reacting to, changes in the business and industry in which we operate;
- limit our ability to service our indebtedness;
- place us at a competitive disadvantage compared to any less-leveraged competitors; and
- prevent us from raising the funds necessary to repurchase all notes tendered to us upon the occurrence of certain changes of control, which would constitute a default under the indenture governing the notes.

The occurrence of any one of these events could have a material adverse effect on our business, financial condition, cash flows, or results of operations or our ability to satisfy our obligations under the notes.

Subject to restrictions in the indenture governing the notes and restrictions in the ABL facility, we may incur additional indebtedness or liabilities, which could increase the risks associated with our already substantial indebtedness and reduce the amounts available to pay amounts due with respect to the notes. The terms of the indenture permit us to incur additional debt, including additional secured debt. If we incur any additional indebtedness

secured by liens that rank equally with those securing the notes, the holders of that debt will be entitled to share ratably with you in any proceeds distributed in connection with any insolvency, liquidation, reorganization, dissolution, or other winding-up of us.

***Our ability to generate cash depends on many factors beyond our control, and we may not be able to generate the cash required to service our debt.***

Our ability to make payments on our indebtedness, including the notes, and to fund our operations will depend on our ability to generate cash in the future. Our historical financial results have been, and our future financial results are expected to be, subject to substantial fluctuations, and will depend upon general economic

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conditions and financial, competitive, legislative, regulatory, and other factors that are beyond our control. If we are unable to meet our debt service obligations or fund our other liquidity needs, we may need to refinance all or a portion of our debt, including the notes, before maturity, seek additional equity capital, reduce or delay scheduled expansions and capital expenditures, or sell material assets or operations. We cannot assure you that we will be able to pay our debt or refinance it on commercially reasonable terms, or at all, or to fund our liquidity needs.

If for any reason we are unable to meet our debt service obligations, we would be in default under the terms of the agreements governing our outstanding debt. If such a default were to occur, the lenders under the ABL facility could elect to declare all amounts outstanding under the ABL facility immediately due and payable, and the lenders would not be obligated to continue to advance funds under the ABL facility. If the amounts outstanding under the ABL facility are accelerated, we cannot assure you that our assets will be sufficient to repay in full the money owed to the banks or to our debt holders, including holders of notes.

***The indenture governing the notes and the ABL facility contain various covenants limiting the discretion of our management in operating our business and could prevent us from capitalizing on business opportunities and entering into certain corporate transactions.***

The indenture governing the notes and the ABL facility impose significant operating and financial restrictions on us. These restrictions limit or restrict, among other things, our ability and the ability of our restricted subsidiaries to:

- incur or guarantee additional indebtedness or issue preferred stock;
- pay dividends or make other distributions to stockholders;
- purchase or redeem capital stock or subordinated indebtedness;
- make investments;
- create liens or use assets as security;
- enter into agreements restricting any restricted subsidiary s ability to pay dividends, make loans, or transfer assets to us or other restricted subsidiaries;
- sell assets, including capital stock of restricted subsidiaries;
- engage in transactions with affiliates; and
- consolidate or merge with or into other companies or transfer all or substantially all of our or their assets.

In addition, in certain circumstances, the ABL facility requires us to maintain a minimum fixed charge coverage ratio and comply with certain other covenants. Our ability to comply with these covenants may be affected by events beyond our control, including those described in this Risk Factors section. Complying with these covenants may also cause us to take actions that are not favorable to the holders of the notes and may make it more difficult for us to successfully execute our business strategies and compete against companies that are not subject to such restrictions.

A breach of any of the covenants contained in the ABL facility could result in an event of default, which would allow the lenders under the ABL facility to declare all borrowings outstanding to be due and payable, which would in turn trigger an event of default under the indenture governing the notes and, potentially, our other indebtedness. In the event of an acceleration of payment obligations, we would likely be unable to pay our outstanding indebtedness with

our cash and cash equivalents then on hand. We would, therefore, be required to seek alternative sources of funding, which may not be available on commercially reasonable terms, terms as favorable as our current agreements, or at all, or seek alternative forms of relief such as reorganization or bankruptcy. If we are unable to refinance our indebtedness or find alternative means of financing our operations, we may be required to curtail our operations or take other actions that are inconsistent with our current business practices or strategy.

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***Holders of our indebtedness secured by liens ranking prior to the lien securing the notes, including under the ABL facility, have rights senior to the rights of the holders of the notes.***

Obligations under the ABL facility and certain related hedging and cash management obligations are secured by a first-priority lien on the ABL priority collateral, which includes certain foreign assets. Subject to certain exceptions, including, without limitation, the exclusion of foreign assets, the notes and the related guarantees are secured by a second-priority lien on the ABL priority collateral. Any rights to payment and claims by the holders of the notes, therefore, are subject to the rights to payment or claims by our lenders under the ABL facility and the holders of any such hedging and cash management obligations with respect to distributions of such collateral. Only when our obligations under the ABL facility and such hedging and cash management obligations are satisfied in full are the proceeds of ABL priority collateral (other than any foreign assets), subject to other permitted liens, available to repay the notes. In addition, the indenture governing the notes permits us, subject to certain limits, to incur additional indebtedness secured by a lien that ranks equally with or better than with the notes. Any such indebtedness may further limit the recovery from the realization of the value of such ABL priority collateral available to satisfy holders of the notes.

***Certain assets are excluded from the collateral.***

Certain assets are excluded from the collateral securing the notes as described under Description of Notes Security, including, without limitation:

- the voting capital stock of any of our foreign subsidiaries in excess of 65% of the voting rights of all of that capital stock in that subsidiary, and any capital stock of an entity that is not our subsidiary to the extent a pledge of the capital stock is prohibited by that entity s organizational documents or any shareholders agreement or joint venture agreement relating to that capital stock;

- real property leased by us or our subsidiaries, as tenant, certain owned real property that is not being mortgaged on the issue date, and future owned facilities which individually have a fair market value less than $2.5 million;

- any contract, lease, license, or other agreement as to which the grant of a security interest therein would violate applicable law, result in the invalidation thereof, or provide any party thereto with a right of termination; and

- other excluded assets described under Description of Notes Security.

In addition, the collateral securing the notes does not include any assets of subsidiaries that are not guarantors. If an event of default occurs and the notes are accelerated, the notes will rank equally with the holders of all of the Issuer s other unsubordinated and unsecured indebtedness and other liabilities with respect to those excluded assets. As a result, if the value of the assets securing the notes (taking into account any secured indebtedness with a prior security interest in such assets) is less than the aggregate amount of the claims of the holders of the notes, no assurance can be provided that the holders of the notes would receive any substantial recovery from the excluded assets.

***The ability of the collateral agent to realize upon the capital stock or other securities of our subsidiaries securing the notes is automatically limited to the extent the pledge of such capital stock or other securities would require the filing with the SEC of separate financial statements for any of our subsidiaries.***

Under Rule 3-16 of Regulation S-X in effect as of the issue date of the notes offered hereby, if the par value, book value as carried by us, or market value (whichever is greatest) of the capital stock or other securities pledged as part of the collateral securing the notes is greater than or equal to 20% of the aggregate principal amount of the notes then outstanding, such subsidiary would be required to provide separate financial statements to the SEC. As a result, the

indenture governing the notes and the security documents relating to the security interest in the collateral securing the notes provide that to the extent that separate financial statements of any of our subsidiaries would be required by the rules of the SEC due to the fact that such subsidiary s capital stock or other securities secures the notes, the pledge of such capital stock or other securities constituting collateral securing the notes will automatically be limited such that the value of the

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portion of such capital stock that the trustee of the registered notes may realize will, in the aggregate, at no time exceed 19.9% of the aggregate principal amount of the then outstanding notes. See Description of Notes Security.

***Ratings of the notes may affect the market price and marketability of the notes.***

We currently expect that, upon issuance, the new notes will be rated by Moody s Investors Service, Inc. and Standard & Poor s Ratings Services, a division of The McGraw-Hill Companies, Inc. Such ratings are limited in scope, and do not address all material risks relating to an investment in the notes, but rather reflect only the view of each rating agency at the time the rating is issued. An explanation of the significance of such rating may be obtained from such rating agency. There is no assurance that such credit ratings will be issued or remain in effect for any given period of time or that such ratings will not be lowered, suspended, or withdrawn entirely by the rating agencies, if, in each rating agency s judgment, circumstances so warrant. It is also possible that such ratings may be lowered in connection with the application of the proceeds of this offering or in connection with future events, such as future acquisitions. Holders of notes will have no recourse against us or any other parties in the event of a change in or suspension or withdrawal of such ratings. Any lowering, suspension, or withdrawal of such ratings may have an adverse effect on the market price or marketability of the notes.

***The value of the security interest in the collateral securing the notes may not be sufficient to satisfy all our obligations under the notes.***

In the event of a foreclosure on, or a distribution in a bankruptcy or insolvency proceeding of, the ABL priority collateral, the proceeds from that collateral may not be sufficient to satisfy the second-priority lien of notes because such proceeds would, under the intercreditor agreement, first be applied to satisfy our obligations under the ABL facility and certain related hedging and cash management obligations. Only after all of our obligations under the ABL facility and other obligations have been satisfied will proceeds from the ABL priority collateral (other than foreign assets) be applied to satisfy our obligations under the notes. In addition, in the event of a foreclosure on the notes priority collateral, on which the notes have a first-priority lien, the proceeds from such foreclosure may not be sufficient to satisfy our obligations under the notes. We did not obtain any valuation for the notes priority collateral or the ABL priority collateral in connection with this offering.

The value of the collateral at any time will depend on market and other economic conditions, including the availability of suitable buyers for the collateral. By its nature, some or all of the collateral may be illiquid and may have no readily ascertainable market value. The value of the assets pledged as collateral for the notes could be impaired in the future as a result of changing economic conditions, competition, distressed sale circumstances, or other future trends. In addition, to the extent that liens, rights, or easements granted to third parties, including tenants, encumber assets or properties owned by us, such third parties have or may exercise rights and remedies with respect to the property or assets subject to such liens that could adversely affect the value of the collateral and the ability of the collateral agent to foreclose on the collateral. Certain of the properties constituting collateral are subject to encroachments from neighboring properties, or include improvements that encroach on neighboring properties. Any dispute regarding, or forced removal of, such encroachments could adversely affect the value of such collateral. In the event of a foreclosure, liquidation, bankruptcy, or similar proceeding, no assurance can be given that:

- the proceeds from any sale or liquidation of the ABL priority collateral will be sufficient to pay our obligations under the notes, in full or at all, after first satisfying our obligations in full under the ABL facility and certain hedging and cash management obligations; or

- the collateral will be saleable (even if saleable, the timing of its liquidation would be uncertain).

In addition, we may not have liens perfected on all of the collateral securing the notes prior to the closing of this offering. Although the indenture governing the notes will contain a covenant requiring us to use commercially reasonable efforts to perfect the lien on certain of our assets promptly following the issue date of the notes, no assurance can be given that such liens will be perfected on a timely basis. Accordingly, there

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may not be sufficient collateral to pay all or any of the amounts due on the notes. Any claim for the difference between the amount, if any, realized by holders of the notes from the sale of the collateral securing the notes and the obligations under the notes will rank equally in right of payment with all of our other unsecured unsubordinated indebtedness and other obligations, including trade payables.

With respect to some of the collateral, the collateral agent s security interest and ability to foreclose will also be subject to and limited by priority issues, state law requirements, practical problems and the need to meet certain requirements, such as obtaining third-party consents and making additional filings. If we are unable to obtain these consents or make these filings, the security interests may be invalid and the holders will not be entitled to the collateral or any recovery with respect thereto. We cannot assure you that any such required consent or approval can be obtained by the completion of this offering on a timely basis or at all. These requirements may limit the number of potential bidders for certain collateral in any foreclosure and may delay any sale, either of which events may have an adverse effect on the sale price of the collateral. Therefore, the practical value of realizing on the collateral may be limited, without the appropriate consents and filings.

***The imposition of certain permitted collateral liens could materially adversely affect the value of the collateral.***

The collateral securing the notes is also subject to liens permitted under the terms of the indenture governing the notes and the ABL facility. The existence of any permitted collateral liens could materially adversely affect the value of the collateral that could be realized by the holders of the notes as well as the ability of the collateral agent to realize or foreclose on such collateral. The collateral that secures the notes may also secure future indebtedness and other obligations of ours to the extent permitted by the indenture and the security documents. Your rights to the collateral would be diluted by any increase in the indebtedness secured by the collateral.

***Rights of holders of notes in the collateral may be materially adversely affected by the failure to perfect liens on certain collateral acquired in the future.***

Applicable law requires that certain property and rights acquired after the grant of a general security interest or lien can only be perfected at the time such property and rights are acquired and identified. There can be no assurance that the trustee or the collateral agent will monitor, or that we will inform the trustee or the collateral agent of, the future acquisition of property and rights that constitute collateral, and that the necessary action will be taken to properly perfect the lien on such after-acquired collateral. Neither the trustee nor the collateral agent for the notes has any obligation to monitor the acquisition of additional property or rights that constitute collateral or the perfection of any security interests therein. Such failure may result in the loss of security interests or the practical benefits of the liens thereon or of the priority of the liens securing the notes.

***Claims of creditors of any of our subsidiaries are structurally senior and have priority over holders of the notes with respect to the assets and earnings of such subsidiaries.***

All liabilities of any of our subsidiaries that are not guarantors are structurally senior to the notes. As of the date of this prospectus, none of our subsidiaries guarantee the notes. Accordingly, claims of holders of the notes are structurally subordinate to the claims of creditors of such subsidiaries, including trade creditors. All obligations of such subsidiaries have to be satisfied before any of the assets of such subsidiaries would be available for distribution, upon liquidation or otherwise, to us.

As of March 31, 2011, our subsidiaries accounted for $1,316.4 million, or 60%, of our consolidated assets and $648.1 million, or 36%, of our consolidated liabilities (excluding intercompany liabilities).

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***Fraudulent conveyance laws may permit courts to void the guarantees, if any, of the notes in specific circumstances, which would interfere with the payment of the guarantees and realization upon collateral owned by the guarantors.***

The guarantees of our guarantor subsidiaries, if any, may be subject to challenge under state, federal, or foreign fraudulent conveyance or transfer laws. Under state and federal laws, any guarantee made by any of our subsidiaries could be voided, or claims under the guarantee made by any of our subsidiaries could be subordinated to all other obligations of any such subsidiary if a court, in a lawsuit by an unpaid creditor or representative of creditors of such subsidiary, such as a trustee in bankruptcy or the subsidiary in its capacity as debtor-in-possession, were to find that, at the time such obligation was incurred, such subsidiary, among other things:

incurred the obligations with the intent to hinder, delay, or defraud creditors; or

received less than reasonably equivalent value in exchange for incurring those obligations; and

was insolvent or rendered insolvent by reason of that incurrence;

was engaged in a business or transaction for which the guarantor subsidiary s remaining assets constituted unreasonably small capital; or

intended to incur, or believed that it would incur, debts beyond its ability to pay as those debts matured.

Each guarantee will contain a provision intended to limit the guarantor s liability to the maximum amount that it could incur without causing the incurrence of obligations under its guarantee to be a fraudulent transfer. This provision may not be effective to protect the guarantees from being voided under fraudulent transfer law, or may reduce the guarantor s obligation to an amount that effectively makes the guarantee worthless. Further, the value of any collateral pledged by a guarantor that may be realized by the holders of the notes will be limited to the maximum claim such holders have under the guarantee.

The measures of insolvency for purposes of the fraudulent transfer laws vary depending on the law applied. Generally, however, an entity would be considered insolvent if:

the sum of its debts, including contingent liabilities, is greater than the fair value of all of its assets;

the present fair saleable value of its assets is less than the amount that would be required to pay its probable liabilities on its existing debts, including contingent liabilities, as they become absolute and mature; or

it cannot pay its debts as they become due.

We cannot give any assurance as to what standards a court would use to determine whether a guarantor, if any, were solvent at the relevant time or whether, whatever standard was used, the applicable guarantee would not be avoided on any of the grounds described above.

***The intercreditor agreement limits the rights of the holders of the notes and their control with respect to the collateral securing the notes.***

The rights of the holders of the notes with respect to the ABL priority collateral are limited pursuant to the terms of the intercreditor agreement. Under the intercreditor agreement, if amounts or commitments remain outstanding under the ABL facility and certain hedging and cash management obligations, actions taken in respect of the ABL priority

collateral, including the ability to cause the commencement of enforcement proceedings against such collateral and to control the conduct of these proceedings, will be at the sole direction of the holders of the obligations secured by the ABL priority collateral, subject to certain limitations. As a result, the collateral agent, on behalf of the holders of the notes, may not have the ability to control or direct these actions, even if the rights of the holders of the notes are adversely affected. Additionally, the agent for the lenders under the ABL facility will generally have a right to access and use the notes priority collateral

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for a period of 270 days, subject to certain extensions, following any foreclosure by the collateral agent on such notes priority collateral. See Description of Notes Intercreditor Agreement.

***Any future pledge of collateral might be avoidable in bankruptcy.***

Any future pledge of collateral in favor of the collateral agent, including pursuant to security documents delivered after the date of the indenture governing the notes, might be avoidable by the pledgor (as debtor-in-possession) or by its trustee in bankruptcy if certain events or circumstances exist or occur, including if the pledgor is insolvent at the time of the pledge, the pledge permits the holders of the notes to receive a greater recovery than if the pledge had not been given and a bankruptcy proceeding in respect of the pledgor is commenced within 90 days following the pledge, or, in certain circumstances, a longer period.

***The collateral securing the notes is subject to casualty risks.***

We intend to maintain insurance or otherwise insure against hazards in a manner appropriate and customary for our business. There are, however, certain losses that may be either uninsurable or not economically insurable, in whole or in part. Insurance proceeds may not compensate us fully for our losses. If there is a complete or partial loss of any of the collateral, the insurance proceeds may not be sufficient to satisfy all of the secured obligations, including the notes. In the event of a total or partial loss to any of the mortgaged facilities, certain items of equipment, fixtures, and other improvements may not be easily replaced.

***U.S. federal and state and foreign environmental laws may decrease the value of the collateral securing the notes and may result in the secured lender becoming liable for certain environmental cleanup costs relating to our facilities.***

The notes are secured by liens on real property that may be subject to both known and unforeseen environmental risks, and these risks may reduce or eliminate the value of the real property pledged as collateral for the notes or adversely affect our ability to repay the notes.

Moreover, under some U.S. federal and state and foreign environmental laws, a secured lender may, in some situations, become subject to its debtor s environmental liabilities, including liabilities arising out of contamination at or from the debtor s properties. Such liability can arise before foreclosure, if the secured lender becomes sufficiently involved in the operations of the affected facility. Similarly, when a secured lender forecloses and takes title to a contaminated facility or property, the lender could become subject to such liabilities, depending on the circumstances, such as if the secured lender becomes sufficiently involved in the operations of the affected facility.

***In the event of a bankruptcy, the ability of the holders of the notes to realize upon the collateral will be subject to certain bankruptcy law limitations.***

Bankruptcy law could prevent the collateral agent from repossessing and disposing of, or otherwise exercising remedies in respect of, the collateral upon the occurrence of an event of default if a bankruptcy proceeding were to be commenced by or against us prior to the collateral agent having repossessed and disposed of, or otherwise exercised remedies in respect of, the collateral. Under Chapter 11 of the federal bankruptcy laws, or the Bankruptcy Code, a secured creditor, such as the collateral agent, is prohibited from repossessing its security from a debtor in a bankruptcy case, or from disposing of security repossessed from such debtor, without bankruptcy court approval. Moreover, the Bankruptcy Code permits the debtor to continue to retain and to use collateral even though the debtor is in default under the applicable debt instrument, provided that the secured creditor is given adequate protection. The meaning of the term adequate protection may vary according to the circumstances, but it is intended to protect the value of the secured creditor s interest in the collateral. The court may find adequate protection if the debtor pays cash or grants

additional security, if and at such times as the court in its discretion determines, for any diminution in the value of the collateral during the pendency of the bankruptcy case. In view of the lack of a precise definition of the term adequate protection and the broad discretionary powers of a bankruptcy court, it is impossible to predict how long payments with respect to the notes could be delayed following commencement of a

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bankruptcy case, whether or when the trustee or the collateral agent could repossess or dispose of the collateral, or whether or to what extent holders would be compensated for any delay in payment or loss of value of the collateral through the requirement of adequate protection.

***There is no established trading market for the notes, which means there are uncertainties regarding the price and terms on which a holder could dispose of the notes, if at all.***

There is no established trading market for the notes. We have not applied to list the notes on any national securities exchange or inter-dealer quotation system. As a result, we are unable to assure you as to the presence or the liquidity of any trading market for the notes.

We cannot assure you that you will be able to sell your notes at a particular time or that the prices that you receive when you sell your notes will be favorable. We also cannot assure you as to the level of liquidity of the trading market for the notes if one develops. Future trading prices of the notes will depend on many factors, including:

our operating performance and financial condition;

the interest of securities dealers in making a market and the number of available buyers; and

the market for similar securities.

You should not make an investment in any of the notes unless you understand and know you can bear all of the investment risks involving the notes.

***We may be unable to repurchase the notes upon a change of control or pursuant to an asset sale offer or an event of loss offer as required by the indenture governing the notes.***

Upon the occurrence of certain specific kinds of change of control events specified in Description of the Notes Change of Control, we must offer to repurchase all outstanding notes. In such circumstances, we cannot assure you that we would have sufficient finds available to repay all of our senior indebtedness and any other indebtedness that would become payable upon a change of control and to repurchase all of the notes. Our failure to purchase the notes would be a default under the indenture governing the notes, which would in turn trigger a default under the ABL facility. Our other debt agreements also may contain restrictions on repayment requirements with respect to specified events or transactions that constitute a change of control under the indenture.

In addition, in certain circumstances specified in the indenture governing the notes, we will be required to commence an asset sale offer or an event of loss offer, pursuant to which we will be obligated to offer to repurchase a certain amount of outstanding notes. Our other debt agreements may contain restrictions that would limit or prohibit us from completing any such asset sale offer or event of loss offer. Our failure to purchase any such notes when required would be a default under the indenture governing the notes, which would in turn trigger a default under the ABL facility.

**Risks Relating to the Exchange Offer**

***If you do not participate in the exchange offer, your old notes will continue to be subject to significant transfer restrictions, and your ability to sell those old notes will be significantly limited.***

If you do not exchange your old notes for new notes in the exchange offer, your old notes will continue to be subject to the transfer restrictions described in the old notes, and you will no longer be entitled to registration rights related to

the old notes. In general, you may only offer or sell the old notes if they are registered under the Securities Act and applicable state securities laws, or exempt from or offered or sold in a transaction not subject to registration. We do not plan to register the old notes under the Securities Act after completion of the exchange offer.

Upon completion of the exchange offer, due to the transfer restrictions on the old notes and the absence of similar restrictions on the new notes, it is likely that the market, if any, for old notes will be relatively less

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liquid than the market for new notes. Consequently, holders of old notes who do not participate in the exchange offer could experience significant diminution in the value of their old notes, compared to the value of the new notes, and the ability to sell old notes will be significantly limited.

***If you participate in the exchange offer for the purpose of participating in the distribution of the new notes or are our affiliate, you may still be subject to various transfer restrictions.***

If you exchange your old notes for new notes in the exchange offer for the purpose of participating in the distribution of the new notes, you may be deemed an underwriter under the Securities Act. If so, you will be required to comply with the registration and prospectus delivery requirements of the Securities Act in connection with any offer to resell, resale or other transfer of the new notes. If you are deemed to be an underwriter and do not comply with these requirements, you may incur liability under the Securities Act, which we do not and will not assume or indemnify against. In addition, our affiliates may offer to resell, resell or otherwise transfer the new notes only if they comply with the provisions of Rule 144 under the Securities Act or another available exemption.

***If you fail to comply with the exchange offer procedures, your old notes will not be accepted for exchange and will continue to be subject to existing transfer restrictions, and you may not be able to sell your old notes.***

We will not accept your old notes for exchange if you fail to comply with any of the exchange offer procedures described in this prospectus and the letter of transmittal. You will receive new notes in exchange for your old notes only if, on or prior to the expiration date, you deliver all of the following to the exchange agent:

certificates for the old notes or a book-entry confirmation of a book-entry transfer of the old notes into the exchange agent s account at the Depository Trust Company, or DTC;

the letter of transmittal, properly completed and signed by you, together with any required signature guarantees; and

any other documents required by the letter of transmittal.

You should allow sufficient time to ensure that the exchange agent receives all required documents before the exchange offer expires. Neither we nor the exchange agent has any duty to inform you of defects or irregularities with respect to the tender of your old notes for exchange.

***Broker-dealers may become subject to the registration and prospectus delivery requirements of the Securities Act and any profit on the resale of the new notes may be deemed to be underwriting compensation under the Securities Act.***

Any broker-dealer that acquires new notes in the exchange offer for its own account in exchange for old notes which it acquired through market-making or other trading activities must acknowledge that it will comply with the registration and prospectus delivery requirements of the Securities Act in connection with any resale transaction by that broker-dealer. Any profit on the resale of the new notes and any commission or concessions received by a broker-dealer may be deemed to be underwriting compensation under the Securities Act.

***The market price for the new notes may be volatile.***

Historically, the market for non-investment grade debt has been subject to disruptions that have caused substantial volatility in the prices of securities similar to the new notes offered hereby. The market for the new notes, if any, may be subject to similar disruptions. Any such disruptions may adversely affect the value of the new notes.

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## CAUTIONARY STATEMENT CONCERNING FORWARD LOOKING STATEMENTS

All statements, other than statements of historical fact, contained or incorporated by reference in this prospectus constitute forward-looking statements. Such statements can be identified by (1) the use of forward-looking terminology such as believes, expects, may, estimates, will, could, should, intends, plans, anticipat continues, or future, or the negative thereof, or other variations thereon or comparable terminology or (2) other statements regarding matters that are not historical facts, including without limitation, expectations related to technological developments and consumer demand, plans for product development, forecasts of future costs and expenditures, possible outcomes of legal proceedings, completion of anticipated asset sales, and the adequacy of reserves for loss contingencies. Readers are cautioned that any forward-looking statement is not a guarantee of future performance and may involve significant risks and uncertainties, and that actual results may vary materially from those in the forward-looking statements as a result of various factors. Factors that significantly impact our business and could impact our business in the future include, but are not limited to:

- the fact that lead, a major constituent in most of our products, experiences significant fluctuations in market price and is a hazardous material that may give rise to costly environmental and safety claims;
- our ability to implement and fund business strategies based on current liquidity;
- our ability to realize anticipated efficiencies and avoid additional unanticipated costs related to any restructuring activities;
- the cyclical nature of the industries in which we operate and the impact of current adverse economic conditions on those industries;
- unseasonable weather (warm winters and cool summers) which could adversely affect demand for automotive and some industrial batteries;
- our substantial debt and debt service requirements which may restrict our operational and financial flexibility, as well as impose significant interest and financing costs;
- the litigation proceedings to which we are subject, the results of which could have a material adverse effect on us and our business;
- the realization of the tax benefits of our net operating loss carry forwards, which is dependent upon future taxable income;
- the negative results of tax audits in the U.S. and Europe, which could result in the payment of significant cash taxes;
- competitiveness of the battery markets in the Americas and Europe;
- risks involved in foreign operations such as disruption of markets, changes in import and export laws, currency restrictions, currency exchange rate fluctuations, and possible terrorist attacks against U.S. interests;
- the ability to acquire goods and services and/or to fulfill later needs at budgeted costs;

general economic conditions;

our ability to successfully pass along increased material costs to our customers;

recently adopted U.S. lead emissions standards and the implementation of such standards by applicable states; and

the factors discussed above under Risk Factors and other risk factors discussed in our reports filed with the SEC and incorporated by reference into this prospectus.

These forward-looking statements speak only as of the date of this prospectus or, in the case of any document incorporated by reference, the date of that document, and we do not undertake any obligation to publicly release any revisions to these forward-looking statements to reflect events or circumstances after the date of this prospectus or any document incorporated by reference or to reflect the occurrence of unanticipated events.

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## THE EXCHANGE OFFER

The following contains a summary of the material provisions of the exchange offer being made pursuant to the registration rights agreement with respect to the old notes, dated as of January 25, 2011, between us and the initial purchasers of the old notes. It does not contain all of the information that may be important to an investor in the new notes. Reference is made to the provisions of the registration rights agreement, which has been filed as an exhibit to the registration statement of which this prospectus is a part. Copies are available as set forth under the heading Where You Can Find Additional Information.

### Terms of the Exchange Offer

#### *General*

In connection with the issuance of the old notes pursuant to the purchase agreement, dated as of January 13, 2011, between us and the initial purchasers, the holders of the old notes from time to time became entitled to the benefits of the registration rights agreement.

Under the registration rights agreement, we have agreed to:

- use commercially reasonable efforts to cause to be filed with the SEC as soon as practicable after the issue date, a registration statement with respect to an offer to exchange the notes for a new issue of debt securities registered under the Securities Act with terms substantially identical to those of the notes (except for provisions relating to transfer restrictions and payment of additional interest);

- use commercially reasonable efforts to cause the exchange offer registration statement to become or to be declared effective within 240 days after the date of the initial issuance of the old notes;

- use commercially reasonable efforts to consummate such exchange offer within 270 days after the date of the initial issuance of the old notes; and

- in certain circumstances, file and cause to become effective a shelf registration statement for the resale of the notes.

We will keep the exchange offer open for the period required by applicable law, but in any event for at least twenty business days.

Upon the terms and subject to the conditions set forth in this prospectus and in the letter of transmittal, all old notes validly tendered and not withdrawn prior to 5:00 p.m., New York City time, on the expiration date will be accepted for exchange. New notes will be issued in exchange for an equal principal amount of outstanding old notes accepted in the exchange offer. Old notes may be tendered only in minimum denominations of $2,000 and integral multiples of $1,000 in excess thereof. This prospectus, together with the letter of transmittal, is being sent to all registered holders as of , 2011. The exchange offer is not conditioned upon any minimum principal amount of old notes being tendered for exchange. However, the obligation to accept old notes for exchange pursuant to the exchange offer is subject to certain customary conditions as set forth herein under Conditions.

Old notes shall be deemed to have been accepted as validly tendered when, as and if we have given oral or written notice of such acceptance to the exchange agent. The exchange agent will act as agent for the tendering holders of old

notes for the purposes of receiving the new notes and delivering new notes to such holders.

Based on interpretations by the staff of the SEC as set forth in no-action letters issued to third parties (including Exxon Capital Holdings Corporation (available May 13, 1988), Morgan Stanley & Co. Incorporated (available June 5, 1991), K-111 Communications Corporation (available May 14, 1993) and Shearman & Sterling (available July 2, 1993)), we believe that the new notes issued pursuant to the exchange offer may be offered for resale, resold and otherwise transferred by any holder of such new notes, other than any such holder that is a broker-dealer or an affiliate of us within the meaning of Rule 405 under the Securities Act,

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without compliance with the registration and prospectus delivery provisions of the Securities Act, provided that:

- such new notes are acquired in the ordinary course of business;
- such holder has no arrangement or understanding with any person to participate in a distribution of such new notes; and
- such holder is not engaged in and does not intend to engage in a distribution of such new notes.

We have not sought and do not intend to seek a no-action letter from the SEC with respect to the effects of the exchange offer, and there can be no assurance that the staff of the SEC would make a similar determination with respect to the new notes as it has in previous no-action letters.

By tendering old notes in exchange for relevant new notes, and executing the letter of transmittal for such notes, each holder will represent to us that:

- any new notes to be received by it will be acquired in the ordinary course of business;
- it has no arrangements or understandings with any person to participate in the distribution of the old notes or new notes within the meaning of the Securities Act; and
- it is not our affiliate, as defined in Rule 405 under the Securities Act.

If such holder is a broker-dealer, it will also be required to represent that it will receive the new notes for its own account in exchange for old notes acquired as a result of market-making activities or other trading activities and that it will deliver a prospectus in connection with any resale of new notes. See Plan of Distribution. If such holder is not a broker-dealer, it will be required to represent that it is not engaged in and does not intend to engage in the distribution of the new notes. Each holder, whether or not it is a broker-dealer, also will be required to represent that it is not acting on behalf of any person that could not truthfully make any of the foregoing representations contained in this paragraph. If a holder of old notes is unable to make the foregoing representations, such holder may not rely on the applicable interpretations of the staff of the SEC and must comply with the registration and prospectus delivery requirements of the Securities Act in connection with any secondary resale transaction unless such sale is made in compliance with the provisions of Rule 144 under the Securities Act or another available exemption from the registration requirements of the Securities Act.

Each broker-dealer that receives new notes for its own account pursuant to the exchange offer must acknowledge that it will deliver a prospectus in connection with any resale of such new notes. Each letter of transmittal states that by so acknowledging and by delivering a prospectus, a broker-dealer will not be deemed to admit that it is an underwriter within the meaning of the Securities Act. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of new notes received in exchange for old notes, where such old notes were acquired by such broker-dealer as a result of market-making activities or other trading activities. We have agreed that, for a period of up to 180 days after the date the registration statement becomes effective, we will provide copies of this prospectus to broker-dealers upon request for use in connection with any such resale. See Plan of Distribution.

Upon consummation of the exchange offer, any old notes not tendered will remain outstanding and continue to accrue interest at the rate of 85/8%, but, with limited exceptions, holders of old notes who do not exchange their old notes for new notes pursuant to the exchange offer will no longer be entitled to registration rights and will not be able to offer or sell their old notes unless such old notes are subsequently registered under the Securities Act, except pursuant to an

exemption from or in a transaction not subject to the Securities Act and applicable state securities laws. With limited exceptions, we will have no obligation to effect a subsequent registration of the old notes.

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**Expiration Date; Extensions; Amendments; Termination**

The expiration date for the exchange offer shall be 5:00 p.m., New York City time, on , 2011, unless we, in our sole discretion, extend the exchange offer, in which case the expiration date for the exchange offer shall be the latest date to which the exchange offer is extended.

To extend the expiration date, we will notify the exchange agent of any extension by oral or written notice and will notify the holders of old notes by means of a press release or other public announcement prior to 9:00 a.m., New York City time, on the next business day after the previously scheduled expiration date for the exchange offer. Such an announcement will include disclosure of the approximate aggregate principal amount of old notes tendered to date and may state that we are extending the exchange offer for a specified period of time.

In relation to the exchange offer, we reserve the right to:

extend the exchange offer, delay acceptance of old notes due to an extension of the exchange offer or terminate the exchange offer and not permit acceptance of old notes not previously accepted if any of the conditions set forth under Conditions shall have occurred and shall not have been waived by us prior to the expiration date, by giving oral or written notice of such extension, delay or termination to the exchange agent; or

amend the terms of the exchange offer in any manner deemed by us to be advantageous to the holders of old notes, provided that in the event of a material change in the exchange offer, including the waiver of a material condition, we will extend the exchange offer period if necessary so that at least five business days remain in the exchange offer period following notice of the material change.

Any such delay in acceptance, extension, termination or amendment will be followed promptly by oral or written notice of such delay, extension or termination or amendment to the exchange agent. If the terms of the exchange offer are amended in a manner determined by us to constitute a material change, we will promptly disclose such amendment in a manner reasonably calculated to inform the holders of the old notes of such amendment and will extend the exchange offer period if necessary so that at least five business days remain in the exchange offer following notice of the material change.

Without limiting the manner in which we may choose to make public an announcement of any delay, extension or termination of the exchange offer, we shall have no obligations to publish, advertise or otherwise communicate any such public announcement, other than by making a timely release to an appropriate news agency.

***Interest on the New Notes***

The new notes will accrue interest at the rate of 85/8% per annum, accruing interest from the last interest payment date on which interest was paid on the corresponding old note surrendered in exchange for such new note to the day before the consummation of the exchange offer, and thereafter, *provided*, that if an old note is surrendered for exchange on or after a record date for the notes for an interest payment date that will occur on or after the date of such exchange and as to which interest will be paid, interest on the new note received in exchange for such old note will accrue from the date of such interest payment date. Interest on the new notes is payable on February 1 and August 1 of each year, commencing , 2011, or from the most recent interest payment date on which we paid or provided for interest on the old notes. No additional interest will be paid on old notes tendered and accepted for exchange except as provided in the registration rights agreement.

***Procedures for Tendering***

To tender in the exchange offer, a holder must complete, sign and date the letter of transmittal, or a facsimile of such letter of transmittal, have the signatures on such letter of transmittal guaranteed if required by such letter of transmittal, and mail or otherwise deliver such letter of transmittal or such facsimile, together

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with any other required documents, to the exchange agent prior to 5:00 p.m., New York City time, on the expiration date. In addition, either:

a timely confirmation of a book-entry transfer of old notes into the exchange agent s account at DTC, pursuant to the procedure for book-entry transfer described below, must be received by the exchange agent prior to the expiration date with the letter of transmittal; or

the holder must comply with the guaranteed delivery procedures described below.

We will issue new notes only in exchange for old notes that are timely and properly tendered. The method of delivery of the letter of transmittal and all other required documents is at the election and risk of the note holders. If such delivery is by mail, it is recommended that registered or certified mail, properly insured, with return receipt requested, be used. In all cases, sufficient time should be allowed to assure timely delivery and you should carefully follow the instructions on how to tender the old notes. No letters of transmittal or other required documents should be sent to us. Delivery of all letters of transmittal and other documents must be made to the exchange agent at its address set forth below. Holders may also request their respective brokers, dealers, commercial banks, trust companies or nominees to effect such tender for such holders. Neither we nor the exchange agent are required to tell you of any defects or irregularities with respect to your old notes or the tenders thereof.

The tender by a holder of old notes will constitute an agreement between such holder and us in accordance with the terms and subject to the conditions set forth in this prospectus and in the letter of transmittal. Any beneficial owner whose old notes are registered in the name of a broker, dealer, commercial bank, trust company or other nominee and who wishes to tender should contact such registered holder promptly and instruct such registered holder to tender on his behalf.

Signatures on a letter of transmittal or a notice of withdrawal, as the case may be, must be guaranteed by any member firm of a registered national securities exchange or of the Financial Industry Regulatory Authority, Inc., a commercial bank or trust company having an office or correspondent in the United States or an eligible guarantor institution within the meaning of Rule 17Ad-15 under the Exchange Act, each of which we refer to as an Eligible Institution, unless the old notes tendered pursuant to such letter of transmittal or notice of withdrawal, as the case may be, are tendered (1) by a registered holder of old notes who has not completed the box entitled Special Issuance Instructions or Special Delivery Instructions on the letter of transmittal or (2) for the account of an Eligible Institution.

If a letter of transmittal is signed by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations or others acting in a fiduciary or representative capacity, such persons should so indicate when signing, and unless waived by us, submit with such letter of transmittal evidence satisfactory to us of their authority to so act.

All questions as to the validity, form, eligibility, time of receipt and withdrawal of the tendered old notes will be determined by us in our sole discretion, such determination being final and binding on all parties. We reserve the absolute right to reject any and all old notes not properly tendered or any old notes that, if accepted, would, in the opinion of counsel for us, be unlawful. We also reserve the absolute right to waive any irregularities or defects with respect to tender as to particular old notes. Our interpretation of the terms and conditions of the exchange offer, including the instructions in the letter of transmittal, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with tenders of old notes must be cured within such time as we shall determine. None of us, the exchange agent or any other person will be under any duty to give notification of defects or irregularities with respect to tenders of old notes, nor shall any of them incur any liability for failure to give such notification. Tenders of old notes will not be deemed to have been made until such irregularities have been cured or waived. Any old notes received by the exchange agent that are not properly tendered and as to which the defects or irregularities have not been cured or waived will be returned without cost to such holder by the exchange agent, unless

otherwise provided in the letter of transmittal, promptly following the expiration date.

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In addition, we reserve the right in our sole discretion, subject to the provisions of each indenture pursuant to which the notes are issued, to:

purchase or make offers for any old notes that remain outstanding subsequent to the expiration date or, as set forth under Conditions, to terminate the exchange offer;

redeem the old notes as a whole or in part at any time and from time to time, as set forth under Description of Notes Redemption; and

purchase the old notes in the open market, in privately negotiated transactions or otherwise, to the extent permitted under applicable law.

The terms of any such purchases or offers could differ from the terms of this exchange offer.

***Acceptance of Old Notes for Exchange; Delivery of New Notes***

Upon satisfaction or waiver of all of the conditions to the exchange offer, all old notes properly tendered will be accepted promptly after the expiration date, and the new notes of the same series will be issued promptly after expiration of the exchange offer. See Conditions. For purposes of the exchange offer, old notes shall be deemed to have been accepted as validly tendered for exchange when, as and if we have given oral or written notice thereof to the exchange agent. For each old note accepted for exchange, the holder of such series of old notes will receive a new note of the same series having a principal amount equal to that of the surrendered old note.

In all cases, issuance of new notes for old notes that are accepted for exchange pursuant to the exchange offer will be made only after timely receipt by the exchange agent of:

certificates for the old notes or a timely book-entry confirmation of such old notes into the exchange agent s account at the book-entry transfer facility;

a properly completed and duly executed letter of transmittal; and

all other required documents.

If any tendered old notes are not accepted for any reason set forth in the terms and conditions of the exchange offer, such unaccepted or such non-exchanged old notes will be returned without cost to the tendering holder of such notes, if in certificated form, or credited to an account maintained with such book-entry transfer facility promptly after the expiration or termination of the exchange offer.

***Book-Entry Transfer***

The exchange agent will make a request to establish an account with respect to the old notes at the book-entry transfer facility for purposes of the exchange offer within two business days after the date of this prospectus. Any financial institution that is a participant in the book-entry transfer facility s systems may make book-entry delivery of old notes by causing the book-entry transfer facility to transfer such old notes into the exchange agent s account for the relevant notes at the book-entry transfer facility in accordance with such book-entry transfer facility s procedures for transfer. However, although delivery of old notes may be effected through book-entry transfer at the book-entry transfer facility, the letter of transmittal or facsimile thereof with any required signature guarantees and any other required documents must, in any case, be transmitted to and received by the exchange agent at one of the addresses set forth below under Exchange Agent on or prior to the expiration date or the guaranteed delivery procedures described below

must be complied with.

***Exchanging Book-Entry Notes***

The exchange agent and the book-entry transfer facility have confirmed that any financial institution that is a participant in the book-entry transfer facility may utilize the book-entry transfer facility Automated Tender Offer Program, or ATOP, procedures to tender old notes.

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Any participant in the book-entry transfer facility may make book-entry delivery of old notes by causing the book-entry transfer facility to transfer such old notes into the exchange agent s account for the relevant notes in accordance with the book-entry transfer facility s ATOP procedures for transfer. However, the exchange for the old notes so tendered will only be made after a book-entry confirmation of the book-entry transfer of such old notes into the exchange agent s account for the relevant notes, and timely receipt by the exchange agent of an agent s message and any other documents required by the letter of transmittal. The term agent s message means a message, transmitted by the book-entry transfer facility and received by the exchange agent and forming part of a book-entry confirmation, that states that the book-entry transfer facility has received an express acknowledgement from a participant tendering old notes that are the subject of such book-entry confirmation that such participant has received and agrees to be bound by the terms of the letter of transmittal, and that we may enforce such agreement against such participant.

***Guaranteed Delivery Procedures***

If the procedures for book-entry transfer cannot be completed on a timely basis, a tender may be effected if:

the tender is made through an Eligible Institution;

prior to the expiration date, the exchange agent receives by facsimile transmission, mail or hand delivery from such Eligible Institution a properly completed and duly executed letter of transmittal and notice of guaranteed delivery, substantially in the form provided by us, that:

(1) sets forth the name and address of the holder of the old notes and the principal amount of old notes tendered,

(2) states the tender is being made thereby, and

(3) guarantees that within three trading days after the date of execution of the notice of guaranteed delivery, a book-entry confirmation and any other documents required by the letter of transmittal will be deposited by the Eligible Institution with the exchange agent; and

a book-entry confirmation and all other documents required by the letter of transmittal are received by the exchange agent within three trading days after the date of execution of the notice of guaranteed delivery.

***Withdrawal of Tenders***

Tenders of old notes may be withdrawn at any time prior to 5:00 p.m., New York City time, on the expiration date.

For a withdrawal to be effective, a written notice of withdrawal must be received by the exchange agent prior to 5:00 p.m., New York City time, on the expiration date at the address set forth below under Exchange Agent. Any such notice of withdrawal must:

specify the name of the person having tendered the old notes to be withdrawn;

identify the old notes to be withdrawn, including the principal amount of such old notes;

specify the number of the account at the book-entry transfer facility from which the old notes were tendered and specify the name and number of the account at the book-entry transfer facility to be credited with the withdrawn old notes and otherwise comply with the procedures of such facility;

contain a statement that such holder is withdrawing its election to have such old notes exchanged;

be signed by the holder in the same manner as the original signature on the letter of transmittal by which such old notes were tendered, including any required signature guarantees, or be accompanied by documents of transfer to have the trustee with respect to the old notes register the transfer of such old notes in the name of the person withdrawing the tender; and

specify the name in which such old notes are registered, if different from the person who tendered such old notes.

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All questions as to the validity, form, eligibility and time of receipt of such notice will be determined by us, in our sole discretion, such determination being final and binding on all parties. Any old notes so withdrawn will be deemed not to have been validly tendered for exchange for purposes of the exchange offer. Any old notes which have been tendered for exchange but which are not exchanged for any reason will be returned to the tendering holder of such notes without cost to such holder, in the case of physically tendered old notes, or credited to an account maintained with the book-entry transfer facility for the old notes promptly after withdrawal, rejection of tender or termination of the exchange offer. Properly withdrawn old notes may be retendered by following one of the procedures described under Procedures for Tendering and Book-Entry Transfer above at any time on or prior to 5:00 p.m., New York City time, on the expiration date.

***Conditions***

Notwithstanding any other provision in the exchange offer, we shall not be required to accept for exchange, or to issue new notes in exchange for, any old notes and may terminate or amend the exchange offer if at any time prior to 5:00 p.m., New York City time, on the expiration date, we determine in our reasonable judgment that the exchange offer violates applicable law, any applicable interpretation of the Staff of the SEC or any order of any governmental agency or court of competent jurisdiction.

The foregoing conditions are for our sole benefit and may be asserted by us regardless of the circumstances giving rise to any such condition or may be waived by us in whole or in part at any time and from time to time, prior to the expiration date, in our reasonable discretion. Our failure at any time to exercise any of the foregoing rights shall not be deemed a waiver of any such right and each such right shall be deemed an ongoing right which may be asserted at any time and from time to time.

In addition, we will not accept for exchange any old notes tendered, and no new notes will be issued in exchange for any such old notes, if at any such time any stop order shall be threatened or in effect with respect to the registration statement of which this prospectus constitutes a part or the qualification of each of the indentures governing the notes under the Trust Indenture Act of 1939. We are required to use our commercially reasonable efforts to obtain the withdrawal of any order suspending the effectiveness of the registration statement at the earliest practicable date.

***Exchange Agent***

Wells Fargo Bank, National Association, has been appointed as exchange agent for the exchange offer. Questions and requests for assistance and requests for additional copies of this prospectus or of the letter of transmittal should be directed to the exchange agent addressed as follows:

*By Mail, Hand or Overnight Delivery:*
Wells Fargo Bank, N.A.
Corporate Trust Services
608 Second Avenue South, 12th FL
Minneapolis, MN 55479
Attention: Stefan Victory

or

Wells Fargo Bank, National Association
Corporate Trust Services

*By Facsimile:*
(612) 667-6282
or
(770) 551-5118
Attention: Stefan Victory
(For Eligible Institutions Only)

*For Information or Confirmation by Telephone:*
(770) 551-5117

7000 Central Parkway, Suite 550
Atlanta, GA 30328
Attention: Stefan Victory

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***Fees and Expenses***

The expenses of soliciting tenders pursuant to the exchange offer will be borne by us. The principal solicitation for tenders pursuant to the exchange offer is being made by mail; however, additional solicitations may be made by telegraph, telephone, telecopy or in person by our officers and regular employees.

We will not make any payments to or extend any commissions or concessions to any broker or dealer. We will, however, pay the exchange agent reasonable and customary fees for its services and will reimburse the exchange agent for its reasonable out-of-pocket expenses in connection therewith. We may also pay brokerage houses and other custodians, nominees and fiduciaries the reasonable out-of-pocket expenses incurred by them in forwarding copies of the prospectus and related documents to the beneficial owners of the old notes and in handling or forwarding tenders for exchange.

The expenses to be incurred by us in connection with the exchange offer will be paid by us, including fees and expenses of the exchange agent and trustee and accounting, legal, printing and related fees and expenses.

We will pay all transfer taxes, if any, applicable to the exchange of old notes pursuant to the exchange offer. If, however, new notes or old notes for principal amounts not tendered or accepted for exchange are to be registered or issued in the name of any person other than the registered holder of the old notes tendered, or if tendered old notes are registered in the name of any person other than the person signing the letter of transmittal, or if a transfer tax is imposed for any reason other than the exchange of old notes pursuant to the exchange offer, then the amount of any such transfer taxes imposed on the registered holder or any other persons will be payable by the tendering holder. If satisfactory evidence of payment of such taxes or exemption therefrom is not submitted with the letter of transmittal, the amount of such transfer taxes will be billed directly to such tendering holder.

**Accounting Treatment**

We will record the new notes at the same carrying value of the old notes reflected in our accounting records on the date the exchange offer is completed. Accordingly, we will not recognize any gain or loss for accounting purposes upon the exchange of new notes for old notes. We will amortize certain expenses incurred in connection with the issuance of the new notes over the respective terms of the new notes.

**Consequences of Failure to Exchange**

Holders of old notes who do not exchange their old notes for new notes pursuant to the exchange offer will continue to be subject to the restrictions on transfer of such old notes as set forth in the legend on such old notes as a consequence of the issuance of the old notes pursuant to exemptions from, or in transactions not subject to, the registration requirements of the Securities Act and applicable state securities laws. In general, the old notes may not be offered or sold, unless registered under the Securities Act, except pursuant to an exemption from, or in a transaction not subject to, the Securities Act and applicable state securities laws. We do not currently anticipate that we will register the old notes under the Securities Act. To the extent that old notes are tendered and accepted pursuant to the exchange offer, the trading market for untendered and tendered but unaccepted old notes could be adversely affected due to the liquidity of the market for the old notes being diminished as compared to the new notes. In addition, the restrictions on the ability to transfer the old notes may make the old notes less attractive to potential investors than the new notes.

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## RATIO OF EARNINGS TO FIXED CHARGES

The following table shows our ratio of earnings to fixed charges (1) for each of the last five fiscal years.

| | Fiscal Year Ended March 31, | | | | |
|---|---|---|---|---|---|
| | 2007 | 2008 | 2009 | 2010 | 2011 |
| Ratio of earnings to fixed charges | | 1.40 | | | 1.24 |

(1) For purposes of computing the ratio of earnings to fixed charges, earnings consist of income before provision for fixed charges, amortization of capitalized interest and unremitted earnings from equity investments, less interest capitalized and non-controlling interest. Fixed charges include interest expense, amortization of deferred financing costs, amortization of original issue discount on notes, and the portion of rental expense under operating leases deemed by us to be representative of the interest factor. Except for the fiscal year ended March 31, 2008, the ratio of earnings to fixed charges was less than 1.00x for all other periods presented in the table above. Earnings available for fixed charges were inadequate to cover fixed charges for the fiscal years ended March 31, 2007, 2009, and 2010 by $102.2 million, $38.8 million, and $35.1 million, respectively.

## USE OF PROCEEDS

We will not receive any cash proceeds from the issuance of the new notes under the exchange offer. In consideration for issuing the new notes as contemplated by this prospectus, we will receive the old notes in like principal amount. Old notes surrendered in exchange for new notes will be retired and canceled and cannot be reissued. Accordingly, the issuance of the new notes will not result in any increase in our indebtedness.

We received net proceeds of approximately $647.5 million, after deducting the initial purchasers discount and estimated offering expenses, from the sale of the old notes. We used the net proceeds from that offering to repay outstanding borrowings under our credit facilities existing prior to that offering; to fund the tender offer and consent solicitation for any and all of our then-outstanding 2013 senior notes and the redemption by us of our 2013 senior notes outstanding after the completion of the tender offer; and for ongoing working capital and other general corporate purposes.

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## SELECTED FINANCIAL DATA

The selected historical consolidated financial data below includes operating data for the years ended March 31, 2007, 2008, 2009, 2010 and 2011 and balance sheet data as of March 31, 2007, 2008, 2009, 2010 and 2011 that have been derived from our audited consolidated financial statements and the related notes, which have been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm.

Because the data in this table is only a summary and does not provide all of the data contained in our audited consolidated financial statements, you should read the following selected financial data together with Management s Discussion and Analysis of Financial Condition and Results of Operations and our audited consolidated financial statements and the notes related to those statements included in our annual report on Form 10-K for the fiscal year ended March 31, 2011, which are incorporated by reference in this prospectus. See Where You Can Find Additional Information and Incorporation of Information by Reference.

| | Fiscal Year Ended March 31, | | | | |
|---|---|---|---|---|---|
| | 2007 | 2008 | 2009 | 2010 | 2011 |
| | (Dollars in thousands) | | | | |
| **Statement of Operations Data** | | | | | |
| Net sales: | $ 2,939,785 | $ 3,696,671 | $ 3,322,332 | $ 2,685,808 | $ 2,887,516 |
| Operating income (loss)(1) | (13,870) | 116,338 | 67,631 | 16,739 | 95,773 |
| Net (loss) income attributable to Exide Technologies | $ (105,879) | $ 32,059 | $ (69,522) | $ (11,814) | $ 26,443 |
| Basic earnings (loss) per share | $ (2.37) | $ 0.47 | $ (0.92) | $ (0.16) | $ 0.34 |
| Diluted earnings (loss) per share | $ (2.37) | $ 0.46 | $ (0.92) | $ (0.16) | $ 0.33 |

| | As of March 31, | | | | |
|---|---|---|---|---|---|
| | 2007 | 2008 | 2009 | 2010 | 2011 |
| | (Dollars in thousands) | | | | |
| **Balance Sheet Data (at period end):** | | | | | |
| Working capital(2) | $ 486,866 | $ 674,783 | $ 489,216 | $ 428,996 | $ 542,037 |
| Total assets | 2,120,224 | 2,491,396 | 1,900,187 | 1,956,226 | 2,183,664 |
| Total debt | 684,454 | 716,195 | 658,205 | 659,527 | 758,158 |
| Total stockholders equity attributable to Exide Technologies | 330,523 | 544,338 | 326,227 | 332,334 | 404,787 |

| | 2007 | 2008 | As of March 31, 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | | | (Dollars in thousands) | | |
| **Consolidated Cash Flow Data:** | | | | | |
| Cash provided by (used in): | | | | | |
| Operating activities | $ 1,177 | $ 1,080 | $ 120,521 | $ 109,162 | $ 79,990 |
| Investing activities | (47,447) | (49,797) | (101,087) | (95,242) | (71,796) |
| Financing activities | 87,586 | 57,374 | (29,441) | 1,930 | 57,599 |
| **Other Data:** | | | | | |
| Capital expenditures | 51,932 | 56,854 | 108,914 | 96,092 | 88,589 |

(1) Operating income (loss) reflects restructuring and impairment charges of $43.1 million, $10.3 million, $75.0 million, $80.6 million, and $42.3 million in fiscal 2007, 2008, 2009, 2010, and 2011, respectively.

(2) Working capital is calculated as current assets less current liabilities.

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## DESCRIPTION OF OTHER INDEBTEDNESS

### ABL Facility

#### *General*

Concurrently with the issuance of the old notes, Exide Technologies and Exide C.V. entered into a credit agreement, as borrowers, which we refer to as the credit agreement, with Wells Fargo Capital Finance, LLC, as administrative agent, and a syndicate of lenders. The credit agreement is a senior secured asset-based revolving credit facility with commitments of an aggregate principal amount of $200.0 million, which we refer to as the ABL facility. The ABL facility includes a letter of credit sub-facility of $75.0 million, a swingline sub-facility of $25.0 million and an accordion feature that permits us to increase the revolving credit commitments by an amount up to $50.0 million (for an aggregate revolving credit commitment of up to $250.0 million) if we obtain commitments from existing or new lenders for such increase. Revolving loans and letters of credit under the ABL facility are available in U.S. Dollars and Euros.

We summarize below the principal terms of the ABL facility.

#### *Availability*

Our ability to obtain revolving loans and letters of credit under the ABL facility is subject to a borrowing base comprising the following: (1) a domestic borrowing base comprising 85% of the combined eligible accounts receivable of Exide Technologies and those of our domestic subsidiaries which are or become guarantors or borrowers under the ABL facility, plus 85% of the net orderly liquidation value of the eligible inventory of Exide Technologies and such domestic subsidiaries less, in each case, certain reserves established from time to time by the administrative agent and subject to certain limitations, and (2) a foreign borrowing base comprising 85% of the combined eligible accounts receivable of our foreign subsidiaries which are or become guarantors under the ABL facility, plus 85% of the net orderly liquidation value of eligible inventory of our Canadian subsidiaries less, in each case, certain reserves established from time to time by the administrative agent and subject to certain limitations. The maximum amount of credit that is available to us under the foreign borrowing base is limited to the U.S. Dollar equivalent of $40,000,000 plus the availability generated by the eligible accounts and eligible inventory of our Canadian subsidiaries. Exide C.V. is able to obtain revolving loans and letters of credit based on both the domestic borrowing base and the foreign borrowing base, but Exide Technologies is able to obtain revolving loans and letters of credit based only on the domestic borrowing base. All extensions of credit under the ABL facility are subject to the satisfaction of customary conditions, including the absence of a default and accuracy of representations and warranties.

#### *Use of Proceeds*

We may request extensions of credit under the ABL facility for, among other things, working capital and other general corporate purposes. We did not request any loans under the ABL facility on the closing date, although certain letters of credit on our account were deemed to be outstanding under the ABL facility as of such date.

#### *Maturity*

The stated maturity date of the ABL facility is January 25, 2016, and the commitments of the lenders with respect to the ABL facility will automatically terminate on that date. There is no scheduled amortization under the ABL facility. Absent any earlier termination of the ABL facility (whether voluntarily by us or by the administrative agent and the

lenders in the exercise of their remedies), all outstanding loans under the ABL facility will be due and payable in full on the stated maturity date.

***Interest and Fees***

At our option, revolving loans (other than swingline loans) under the ABL facility will bear interest at a rate equal to (1) the base rate plus an interest margin or (2) LIBOR (for U.S. Dollar or Euro denominated

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revolving loans, as applicable) plus an interest margin. The base rate is a rate per annum equal to the greatest of (a) the Federal Funds Rate plus 0.50%, (b) the prime commercial lending rate of the administrative agent, and (c) a rate equal to LIBOR for a one-month interest period plus 1.00%. Swingline loans bear interest at a rate per annum equal to the applicable floating rate (base rate or LIBOR for a one-month interest period) plus an interest margin. The interest margin will be adjusted quarterly based on the average amount available for drawing under the ABL facility and will range between 2.25% and 2.75% per annum for LIBOR borrowings and 1.25% and 1.75% per annum for base rate borrowings. In certain cases where we are in default under the ABL facility, the interest rate will increase by 2.00% per annum above the rate otherwise applicable.

We also pay a commitment fee to the lenders based on the unused portion of the ABL facility. The commitment fee is adjusted quarterly based on the average amount available for drawing under the ABL facility and ranges between 0.375% to 0.50% per annum. For letters of credit, we are required to pay (1) a fee on the undrawn amount of all outstanding letters of credit at a per annum rate equal to the interest margin applicable to LIBOR loans, (2) a fronting fee equal to 0.25% of the face amount of each letter of credit issued or renewed under the ABL facility, and (3) other customary letter of credit administration fees.

***Guarantee; Security***

The obligations of Exide Technologies under the ABL facility will be guaranteed by certain of our domestic subsidiaries that are formed or organized from time to time. We refer to all of such domestic subsidiaries as domestic subsidiary guarantors. The obligations of Exide C.V. under the ABL facility will be guaranteed by Exide Technologies, domestic subsidiary guarantors, if any, certain of our existing foreign subsidiaries and certain of our foreign subsidiaries that are formed or acquired from time to time. We refer to all of such foreign subsidiaries as the foreign subsidiary guarantors.

The obligations of Exide Technologies and domestic subsidiary guarantors, if any, under the ABL facility are secured by a lien on substantially all of the assets of Exide Technologies and such domestic subsidiary guarantors, if any, and the obligations of Exide C.V. and the foreign subsidiary guarantors under the ABL facility will be secured by a lien on substantially all of the assets of Exide Technologies and domestic subsidiary guarantors, if any, on certain assets of certain domestic subsidiaries that pledge such assets solely to secure the obligations of Exide C.V. and the other foreign subsidiary guarantors and on substantially all of the personal property of Exide C.V. and the foreign subsidiary guarantors. Subject to certain permitted liens, the liens securing the obligations under the ABL facility are first priority liens on all assets other than notes priority collateral and are second priority liens on all notes priority collateral.

***Prepayments***

The credit agreement includes mandatory prepayments of net cash proceeds received from the sale, transfer, or other disposition of assets, and insurance and condemnation recoveries, in each case subject to certain limitations and exceptions. In addition, we are required to make mandatory prepayments of loans outstanding or cash collateralize obligations with respect the undrawn amount of outstanding letters of credit to the extent (1) the aggregate outstanding amount of such obligations of Exide Technologies exceed the lesser of the domestic borrowing base and the aggregate commitments of the lenders and (2) the aggregate outstanding amount of such obligations of Exide Technologies and Exide C.V. exceed the lesser of the sum of the domestic borrowing base and the foreign borrowing base, on the one hand, and the aggregate commitments of the lenders, on the other hand. We are permitted to voluntarily prepay obligations owing under the ABL facility and reduce the commitments of the lenders under the ABL facility, in whole or in part, without premium or penalty (other than customary breakage costs with respect to LIBOR loans).

***Conditions Precedent, Representations and Warranties, Covenants, Events of Default***

The credit agreement contains customary conditions to effectiveness, representations and warranties, affirmative and negative covenants, and events of default. The negative covenants include restrictions on, among other things, the incurrence of indebtedness and liens, dividends and other distributions, consolidations and mergers, the purchase and sale of assets, the issuance or redemption of equity interests, loans and

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investments, acquisitions, intercompany transactions, a change of control, voluntary payments and modifications of indebtedness, modification of organizational documents and material contracts, affiliate transactions, and changes in lines of business. The credit agreement also contains a financial covenant requiring us to maintain a minimum fixed charge coverage ratio of 1.00 to 1.00, tested monthly on a trailing twelve-month basis, if at any time our excess availability under the ABL facility is less than the greater of $30.0 million and 15% of the aggregate commitments of the lenders.

**Other Indebtedness**

***Convertible Notes***

In March 2005, we issued $60.0 million in aggregate principal amount of the convertible notes. Interest on the convertible notes is payable quarterly at a per annum rate equal to the three-month LIBOR, adjusted quarterly, minus a spread of 1.5%. The interest rate at March 31, 2011, was 0.0%. Our convertible notes mature on September 18, 2013. The payment of the principal of, premium, if any, and interest (including liquidated damages, if any) on all of the convertible notes are subordinate and junior in right of payment to all of our senior indebtedness. As of March 31, 2011, we had $60.0 million in aggregate principal amount of the convertible notes outstanding.

Our convertible notes are convertible into the common stock at any time prior to maturity. The current conversion rate is 61.6143 shares of common stock per $1,000 principal amount of convertible notes, subject to adjustments for any common stock splits, dividends on the common stock, tender and exchange offers by us for the common stock, any third-party tender offers, and in the event of business combinations constituting a change of control in which 10% or more of the consideration for the common stock is cash or non-traded securities, the conversion rate increases, depending on the value offered and timing of the transaction, to as much as 70.2247 shares per one thousand dollars principal amount.

In the event of any change in control, we could be required to repurchase the convertible notes at a price in cash equal to 100% of the principal amount of the convertible notes, plus accrued and unpaid interest and liquidated damages, if any, up to but not including the repurchase date.

The convertible notes are subject to customary events of default. If an event of default on the convertible notes has occurred and is continuing, the principal amount of the convertible notes, plus accrued and unpaid interest and liquidated damages, if any, may become immediately due and payable. These amounts automatically become due and payable upon certain events of default.

## DESCRIPTION OF NOTES

The Company issued $675.0 million aggregate principal amount of 85/8% Senior Secured Notes due 2018 (the *Old Notes*) and will issue new 85/8% Senior Secured Notes due 2018 (the *New Notes*) under an indenture (the *Indenture*), dated as of January 25, 2011, by and between the Company and Wells Fargo Bank, National Association, as trustee (the *Trustee*).

The terms of the New Notes are substantially identical to the terms of the Old Notes, except that the New Notes are registered under the Securities Act and therefore will not contain restrictions on transfer or provisions relating to additional interest. The New Notes will bear different CUSIP and ISIN numbers from the Old Notes and will not entitle their holders to registration rights. New Notes will otherwise be treated as Old Notes for purposes of the Indenture.

The following is a summary of the material provisions of the Indenture, the Notes and the Security Documents. It does not include all of the provisions of the Indenture or the Security Documents. We urge you to read the Indenture and the Security Documents because they define your rights. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (the *TIA* ). Copies of the Indenture and the Security Documents may be obtained from the Company. You can find definitions of certain capitalized terms used in this description under the caption Certain Definitions. For purposes of this section, references to the Company include only Exide

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Technologies, and not its Subsidiaries. Any reference to Notes or a class of Notes in this Description of Notes refers to the Notes as a class. The term Notes refers collectively to the Old Notes and the New Notes.

The Company issued the Notes in fully registered form in denominations of $2,000 and integral multiples of $1,000 in excess thereof. The Trustee acts as Paying Agent and Registrar for the Notes. The Notes may be presented for registration of transfer and exchange at the offices of the Registrar. The Company may change any Paying Agent and Registrar without notice to Holders. The Company will pay principal (and premium, if any) on the Notes at the Trustee s corporate office or agency in Minneapolis, Minnesota. At the Company s option, interest may be paid at the Trustee s corporate trust office or agency or by check mailed to the registered address of Holders. All Old Notes outstanding after the completion of the exchange offer, together with the New Notes issued in connection with the exchange offer, will be treated as a single class of securities under the Indenture.

**Guarantees**

As of the date of this prospectus, none of the Company s Subsidiaries guaranteed the Notes. As of the date of this prospectus, the Company had no Unrestricted Subsidiaries. Restricted Subsidiaries of the Company will be required to become Guarantors to the extent required by the covenant described under the caption Certain Covenants Subsidiary Guarantees. Payment of the Notes will be guaranteed by the Guarantors, if any, jointly and severally, on a senior secured basis.

If the Company defaults in the payment of the principal of, premium, if any, or interest on the Notes, each of the Guarantors, if any, will be jointly and severally obligated to pay the principal of, premium, if any, and interest on the Notes.

The obligations of each Guarantor, if any, under its Guarantee will be limited to the maximum amount which, after giving effect to all other contingent and fixed liabilities of such Guarantor, and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Guarantee or pursuant to its contribution obligations under the Indenture, will result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under Federal or state law.

Notwithstanding the foregoing, in certain circumstances a Guarantee of a Guarantor, if any, may be released pursuant to the provisions of the covenant described under the caption Certain Covenants Subsidiary Guarantees. Upon any release of a Guarantor from its Guarantee, such Guarantor shall also be automatically and unconditionally released from its obligations under the Security Documents. The Company also may, at any time at its option, cause any Restricted Subsidiary to become a Guarantor.

**Ranking**

The Notes are the Company s senior secured obligations and:

- rank equally in right of payment with all of the Company s existing and future indebtedness that is not by its terms expressly subordinated in right of payment to the Notes;
- rank senior in right of payment to all of the Company s existing and future indebtedness that is by its terms expressly subordinated in right of payment to the Notes;
- are effectively senior in right of payment to all of the Company s existing and future indebtedness that is either (i) unsecured or (ii) secured by a junior priority lien on the Collateral, in each case, to the extent of the assets

comprising the Collateral (as defined under the caption Security );

are effectively subordinated in right of payment to all of the Company s existing and future indebtedness and other obligations that are either (i) secured by assets that are not part of the Collateral or (ii) secured by a prior lien on the Collateral (including, without limitation, the ABL Facility with respect to the ABL Priority Collateral), in each case, to the extent of such assets; and

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are structurally subordinated in right of payment to all existing and future indebtedness and other liabilities of any Subsidiary of the Company that is not a Guarantor.

As of March 31, 2011:

the Company had $758.2 million of indebtedness (including the Notes and borrowings under the ABL Facility Agreement and excluding approximately $56.0 million of outstanding letters of credit) all of which (other than $60.0 million of the Convertible Notes) ranked equally in right of payment with the Notes;

other than capital lease obligations and certain similar purchase money obligations and indebtedness in connection with the ABL facility, the Company did not have any indebtedness that is either (i) secured by assets that are not part of the Collateral or (ii) secured by a prior lien on the Collateral;

the Company and its subsidiaries had up to $200.0 million of additional availability under the ABL Facility Agreement, subject to certain borrowing base calculations and outstanding letters of credit; and

the Company s subsidiaries had $648.1 million of indebtedness and other liabilities (excluding intercompany liabilities).

As of March 31, 2011, the Company s subsidiaries accounted for $1,316.4 million, or 60%, of the Company s consolidated assets and $648.1 million, or 36%, of the Company s consolidated liabilities (excluding intercompany liabilities).

**Principal, Maturity and Interest**

The Notes will mature on February 1, 2018. Additional Notes ( *Additional Notes* ) may be issued from time to time, subject to the limitations set forth under the captions Certain Covenants Limitation on Incurrence of Additional Indebtedness and Certain Covenants Limitation on Liens. The Additional Notes will be secured, equally and ratably with the Notes and any Permitted Additional Pari Passu Obligations, by the Note Lien on the Collateral described under the caption Security. Interest on the Notes will accrue at the rate of 85/8% per annum. Interest on the Notes will be payable semiannually in cash on each February 1 and August 1, commencing on August 1, 2011, to the persons who are registered Holders at the close of business on the January 15 and July 15 immediately preceding the applicable interest payment date. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from and including the date of issuance. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

The Notes will not be entitled to the benefit of any mandatory sinking fund.

**Security**

The obligations of the Company with respect to the Notes and the performance of all other obligations of the Company under the Senior Secured Note Documents are secured equally and ratably (together with any other Permitted Additional Pari Passu Obligations) by (i) second-priority security interests, subject to Permitted Collateral Liens, in the ABL Priority Collateral (other than Excluded Assets) and (ii) first-priority security interests, subject to Permitted Collateral Liens, in the following assets of the Company, in each case whether now owned or hereafter acquired (other than Excluded Assets) (the *Notes Priority Collateral* and, together with the ABL Priority Collateral, the *Collateral* ):

all of the Capital Stock held by, and all intercompany debt (except to the extent constituting ABL Priority Collateral) owed to, the Company; *provided* that in the event that Rule 3-16 of Regulation S-X under the Securities Act requires (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would require) the filing with the Securities and Exchange Commission (the *Commission* ) of separate financial statements of any Subsidiary of the Company due to the fact that such Subsidiary s Capital Stock or other securities secures the Notes or Permitted Additional Pari Passu Obligations, then the Capital Stock and such other securities of such Subsidiary will automatically be deemed not to be part of the Collateral securing the Notes and any Permitted Additional Pari

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Passu Obligations affected thereby but only to the extent necessary to not be subject to such requirement and only for so long as required to not be subject to such requirement;

all of the Company s right, title and interest in the following owned real properties (including all fixtures, easements and appurtenances relating thereto and all other improvements, accessions, alterations, replacements and repairs thereto and all leases, rents and other income, issues or profits derived therefrom or relating thereto) (the *Issue Date Mortgaged Property* ):

**Addresses of Issue Date Mortgaged Property**

2700 South Indiana Street
Vernon, Los Angeles County, California

3639 Joy Road
Columbus, Muscogee County, Georgia

913 South 10th Street
Manchester, Delaware County, Iowa

2601 West Mount Pleasant Boulevard and
4000 South Delaware Drive
Muncie, Delaware County, Indiana

413 East Berg Road
Salina, Saline County, Kansas

3001 Fairfax Trafficway/3025 (3015)
Fairfax Trafficway/3035 Fairfax Trafficway
Kansas City, Wyandotte County, Kansas

2400 Brooklawn Drive
Baton Rouge, East Baton Rouge Parish, Louisiana

25102 Holt 250 Road
Forest City, Holt County, Missouri

829 Paramount Avenue
Lampeter, Lancaster County, Pennsylvania

100, 131 and 200 Spring Valley/Nolan
Reading, Berks County, Pennsylvania

364 Exide Drive
Bristol, Sullivan County, Tennessee

7471 Fifth Street
Frisco, Collin County, Texas

all right, title and interest of the Company in any owned real property (including all fixtures, easements and appurtenances relating thereto and all other improvements, accessions, alterations, replacements and repairs thereto and all leases, rents and other income, issues or profits derived therefrom or relating thereto) acquired by the Company after the Issue Date individually having a fair market value in excess of $2.5 million (determined at the time of acquisition thereof) (the *After Acquired Mortgaged Property* and, together with the Issue Date Mortgaged Property, the *Mortgaged Property* );

the Collateral Account and all Trust Monies;

substantially all of the other tangible and intangible property and assets of the Company, other than the ABL Priority Collateral; and

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general intangibles, instruments, books and records and supporting obligations related to the foregoing and proceeds and products of the foregoing (in each case, except to the extent constituting ABL Priority Collateral).

With respect to the first bullet above, in the event that Rule 3-16 of Regulation S-X under the Securities Act requires or is amended, modified or interpreted by the Commission to permit (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would permit) such Subsidiary s Capital Stock and other securities to secure the Notes in excess of the amount then pledged without the filing with the Commission of separate financial statements of such Subsidiary, then the Capital Stock and other securities of such Subsidiary will automatically be deemed to be a part of the Collateral for the Notes but only to the extent necessary to not be subject to any such financial statement requirement.

*Excluded Assets* includes, among other things, the following assets of the Company:

(i) assets located outside the United States to the extent a Lien on such assets cannot be perfected by the filing of UCC financing statements in the jurisdictions of organization of the Company;

(ii) to the extent not constituting collateral for the ABL Obligations, (x) assets and proceeds thereof securing Indebtedness permitted to be incurred under clause (9) or (15) of the definition of Permitted Indebtedness to the extent such Indebtedness prohibits the granting of a security interest in such assets and proceeds thereof and (y) assets and proceeds thereof subject to Liens pursuant to clause (15) of the definition of Permitted Liens to the extent and for so long as the agreements relating to such Liens prohibit such assets from being Collateral;

(iii) (x) the voting Capital Stock of Foreign Subsidiaries in excess of 65% of the voting rights of all such Capital Stock in each such Foreign Subsidiary and (y) any Capital Stock of a Person that is not a Subsidiary of the Company to the extent, and for so long as, a pledge of such Capital Stock is prohibited by such Person s organizational documents or any shareholders agreement or joint venture agreement relating to such Capital Stock;

(iv) any (x) real properties leased by the Company as tenant, (y) owned real property of the Company existing as of the Issue Date that is not an Issue Date Mortgaged Property, and (z) owned real property acquired by the Company after the Issue Date individually having a fair market value not in excess of $2.5 million (determined at the time of acquisition thereof);

(v) motor vehicles, aircraft and other assets subject to certificates of title to the extent that a Lien therein cannot be perfected by the filing of UCC financing statements in the jurisdictions of organization of the Company;

(vi) any contract, lease, license or other agreement to the extent that and for so long as the grant of a security interest therein would violate applicable law or result in the invalidation thereof, or provide any party thereto with a right of termination with respect thereto (in each case, after giving effect to applicable provisions of the UCC);

(vii) (x) deposit accounts the balance of which consists exclusively of withheld income taxes, employment taxes, or amounts required to be paid over to certain employee benefit plans, and (y) segregated deposit accounts constituting tax, payroll and trust accounts;

(viii) any intellectual property if the grant of a security interest therein would result in the invalidation of the grantor s interest therein;

(ix) any property or assets owned by a Foreign Subsidiary or a Subsidiary that, in each case, is not required to be a Guarantor of the Notes;

(x) any Government Grant Property to the extent and for so long as any applicable law, rule or regulation governing the grant related to such Government Grant Property prohibits or otherwise restricts such Government Grant Property from being encumbered or subject to any Lien or other similar restriction; and

(xi) proceeds and products of any and all of the foregoing excluded assets described in clauses (i) through (x) above only to the extent such proceeds and products would constitute property or assets of the type described in clauses (i) through (x) above.

The Collateral is pledged pursuant to security agreements, dated as of the Issue Date, by and between the Company and the Collateral Agent (as amended, modified, restated, supplemented or replaced from time to time in accordance with its terms, collectively, the *Security Agreement* ), and one or more mortgages, deeds of trust or deeds to secure indebtedness (as amended, modified, restated, supplemented or replaced from time to time in accordance with their respective terms, collectively, the *Mortgages* ) or other grants or transfers for security executed and delivered by the Company to the Collateral Agent for the benefit of the Collateral Agent, the Trustee, the Holders and the holders of any Permitted Additional Pari Passu Obligations. For the avoidance of doubt, no assets of any Subsidiary of the Company (except to the extent that any such Subsidiary becomes a Guarantor in accordance with the covenant described under the caption Certain Covenants Subsidiary Guarantees ) (including any Capital Stock owned by any such Subsidiary) constitutes Collateral.

So long as no Event of Default and no event of default under any Permitted Additional Pari Passu Obligations has occurred and is continuing, and subject to certain terms and conditions, the Company is entitled to exercise any voting and other consensual rights pertaining to all Capital Stock pledged pursuant to the Security Documents and to remain in possession and retain exclusive control over the Collateral (other than as set forth in the Security Documents), to operate the Collateral, to alter or repair the Collateral and to collect, invest and dispose of any income thereon. Subject to the terms and provisions of the Security Documents, upon the occurrence and during the continuance of an Event of Default or an event of default under any Permitted Additional Pari Passu Obligations and to the extent permitted by law and following notice by the Collateral Agent to the Company:

(1) all of the rights of the Company to exercise voting or other consensual rights with respect to all Capital Stock included in the Collateral shall cease, and all such rights shall become vested, subject to the terms of the Intercreditor Agreement, in the Collateral Agent, which, to the extent permitted by law, shall have the sole right to exercise such voting and other consensual rights; and

(2) the Collateral Agent may, subject to the terms of the Intercreditor Agreement, take possession of and sell the Collateral or any part thereof in accordance with the terms of the Security Documents.

Upon the occurrence and during the continuance of an Event of Default or an event of default under any Permitted Additional Pari Passu Obligations, the Collateral Agent will be permitted, subject to applicable law and the terms of the Security Documents and the Intercreditor Agreement, to exercise remedies and sell the Collateral under the Security Documents only at the direction of the agents or representatives (including the Trustee in the case of the Holders) who are authorized to act on behalf of the Holders or the holders of any Permitted Additional Pari Passu Obligations, as applicable, or at the direction of the holders of a majority in the principal amount of the outstanding Notes and any outstanding Permitted Additional Pari Passu Obligations voting as a single class.

Subject to certain limitations and exceptions, the Indenture and the Security Documents require that the Company grant to the Collateral Agent, for the benefit of itself and the Trustee, the Holders and the holders of any Permitted Additional Pari Passu Obligations, a first-priority Lien (subject to Permitted Collateral Liens) on all property acquired after the Issue Date by the Company of the kinds described above as Notes Priority Collateral (other than Excluded Assets) and a second-priority Lien on property acquired after the Issue Date on property of the type covered by the definition of ABL Priority Collateral (other than Excluded Assets).

The proceeds from the sale of the Collateral may not be sufficient to satisfy the obligations owed to the Holders. By its nature some or all of the Collateral is and will be illiquid and may have no readily ascertainable market value.

Accordingly, the Collateral may not be able to be sold in a short period of time, if salable. See Risk Factors The value of the security interest in the collateral securing the notes may not be sufficient to satisfy all our obligations under the notes.

Although the Security Agreement requires the Company to use commercially reasonable efforts in order to grant a security interest to the Collateral Agent in such Collateral within the time frames set forth in the

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Security Agreement and to take certain actions in order to perfect such security interest, no assurance can be given that such security interest will be granted or perfected on a timely basis. See Risk Factors The value of the security interest in the collateral securing the notes may not be sufficient to satisfy all our obligations under the notes and Risk Factors Any future pledge of collateral might be avoidable in bankruptcy.

**Intercreditor Agreement**

The Collateral Agent, on its behalf and on behalf of the Trustee, the Holders and the holders of any Permitted Additional Pari Passu Obligations, the ABL Facility Collateral Agent, on its behalf and on behalf of the holders of the ABL Obligations, and the Company have entered into an intercreditor agreement dated as of the Issue Date (the *Intercreditor Agreement*) that sets forth the relative priority of the ABL Liens and the Note Liens, as well as certain other rights, priorities and interests of the Collateral Agent, the Trustee, the Holders and the holders of any Permitted Additional Pari Passu Obligations, on the one hand, and the holders of the ABL Obligations, on the other hand. The Intercreditor Agreement provides, among other things:

*Lien Priority and Similar Liens.* Notwithstanding the time, order or method of creation or perfection of any ABL Obligations, ABL Liens, Indenture Obligations or any Permitted Additional Pari Passu Obligations or the Note Liens (or the enforceability of any such Obligations and Liens), (i) the ABL Liens on the ABL Priority Collateral will rank senior to any Note Liens on the ABL Priority Collateral and (ii) the Note Liens on the Notes Priority Collateral will rank senior to any ABL Liens on the Notes Priority Collateral. Other than with respect to all or a portion of the Capital Stock of certain Foreign Subsidiaries and the assets of Foreign Subsidiaries in each case, which secure the ABL Obligations, the Collateral for the ABL Obligations and the Indenture Obligations and any Permitted Additional Pari Passu Obligations will at all times be substantially the same.

*Prohibition on Contesting Liens and Obligations.* No Holder or holder of any Permitted Additional Pari Passu Obligations may contest the validity or enforceability of the ABL Liens or the ABL Obligations, and no holder of any ABL Obligations may contest the validity or enforceability of the Note Liens, the Indenture Obligations or any Permitted Additional Pari Passu Obligations.

*Exercise of Remedies and Release of Liens.* For a period of 270 days (subject to extension for any period during which the ABL Facility Collateral Agent is diligently pursuing remedies against the ABL Priority Collateral or is prohibited by applicable law from pursuing such remedies) commencing on the later of (x) the acceleration of the Indenture Obligations or any Permitted Additional Pari Passu Obligations and (y) the ABL Facility Collateral Agent receiving notice of such acceleration from the Collateral Agent, the ABL Facility Collateral Agent will have the sole power to exercise remedies against the ABL Priority Collateral (subject to the right of the Collateral Agent and the Holders and the holders of any Permitted Additional Pari Passu Obligations to take limited protective measures with respect to the Note Liens and to take certain actions that would be permitted to be taken by unsecured creditors) and to foreclose upon and dispose of the ABL Priority Collateral. For a period of 270 days (subject to extension for any period during which the Collateral Agent is diligently pursuing remedies against the Notes Priority Collateral or is prohibited by applicable law from pursuing such remedies) commencing on the later of (x) the acceleration of the ABL Obligations and (y) the Collateral Agent receiving notice of such acceleration from the ABL Facility Collateral Agent, the Collateral Agent will have the sole power to exercise remedies against the Notes Priority Collateral (subject to the right of the ABL Facility Collateral Agent and the holders of ABL Obligations to take limited protective measures and certain actions permitted to be taken by unsecured creditors) and to foreclose upon and dispose of the Notes Priority Collateral. Upon any sale of any ABL Priority Collateral in connection with any enforcement action consented to by the ABL Facility Collateral Agent which results in the release of the ABL Lien on such item of ABL Priority Collateral, the Note Lien on such item of ABL Priority Collateral will be automatically released.

Upon any sale of any Notes Priority Collateral in connection with any enforcement action consented to by the Collateral Agent which results in the release of the Note Lien on such item of Notes Priority Collateral, the ABL Lien on such item of Notes Priority Collateral will be automatically released.

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*ABL Facility Collateral Agent s Access and Use Rights.* The Collateral Agent will permit the ABL Facility Collateral Agent to have access to and use of certain items of Notes Priority Collateral prior to, and for a period of up to 270 days (subject to extension during periods when the ABL Facility Collateral Agent is prohibited by law from exercising such rights) following the foreclosure upon such item of Notes Priority Collateral by the Collateral Agent in order to facilitate the ABL Facility Collateral Agent s exercise of remedies with respect to the ABL Priority Collateral.

*Tracing of Collateral and Treatment of Cash.* Prior to the commencement of an exercise of remedies against any Collateral by the ABL Facility Collateral Agent or the Collateral Agent or an insolvency or liquidation proceeding, whether any asset was acquired with proceeds (within the meaning of the UCC) of ABL Priority Collateral or Notes Priority Collateral will be disregarded for purposes of determining whether such asset constitutes ABL Priority Collateral or Notes Priority Collateral.

*Application of Proceeds and Turn-Over Provisions.* In connection with any enforcement action with respect to the Collateral or any insolvency or liquidation proceeding, all proceeds of (x) ABL Priority Collateral will first be applied to the repayment of all ABL Obligations before being applied to any Indenture Obligations or any Permitted Additional Pari Passu Obligations and (y) Notes Priority Collateral will first be applied to the repayment of all Indenture Obligations and any Permitted Additional Pari Passu Obligations before being applied to any ABL Obligations. If any Holder or any holder of a Permitted Additional Pari Passu Obligation or ABL Obligation receives any proceeds of Collateral in contravention of the foregoing, such proceeds will be turned over to the Collateral Agent or ABL Facility Collateral Agent, as applicable, for application in accordance with the foregoing.

*Amendment and Refinancings.* The ABL Obligations, the Indenture Obligations and any Permitted Additional Pari Passu Obligations may be amended or Refinanced subject to continuing rights and obligations of the holders of such refinancing Indebtedness under the Intercreditor Agreement.

*Certain Matters in Connection with Liquidation and Insolvency Proceedings.*

*Debtor-in-Possession Financings.* In connection with any insolvency or liquidation proceeding of the Company, the ABL Facility Collateral Agent may consent to certain debtor-in-possession financings secured by a Lien on the ABL Priority Collateral ranking prior to the Note Lien on such ABL Priority Collateral or to the use of cash collateral constituting proceeds of ABL Priority Collateral without the consent of any Holder or any holder of Permitted Additional Pari Passu Obligations, and no Holder or holder of a Permitted Additional Pari Passu Obligation shall be entitled to object to such use of cash collateral or debtor-in-possession financing or seek adequate protection in connection therewith (other than in the form of a junior lien on any additional items of collateral for the ABL Obligations which are granted in connection with such debtor-in-possession financing or use of cash collateral).

*Relief from Automatic Stay; Bankruptcy Sales and Post-Petition Interest.* No Holder or holder of Permitted Additional Pari Passu Obligation may (x) seek relief from the automatic stay with respect to any ABL Priority Collateral, (y) object to any sale of any ABL Priority Collateral in any insolvency or liquidation proceeding which has been consented to by the ABL Facility Collateral Agent or (z) object to any claim of any holder of ABL Obligations to post-petition interest as a result of its ABL Lien on the ABL Priority Collateral. No holder of any ABL Obligation may (x) seek relief from the automatic stay with respect to any Notes Priority Collateral, (y) object to any sale of any Notes Priority Collateral in any insolvency or liquidation proceeding which has been consented to by the Collateral Agent or (z) object to any claim of any Holder or holder of Permitted Additional Pari Passu Obligations to post-petition interest as a result of its

Note Lien on the Notes Priority Collateral.

*Adequate Protection.* No Holder or holder of Permitted Additional Pari Passu Obligations may, except as expressly provided above, seek adequate protection on account of its Note Lien on the ABL Priority Collateral unless (i) the holders of any ABL Obligations have been granted adequate protection in the form of a replacement lien on such ABL Priority Collateral, and (ii) any such lien

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on ABL Priority Collateral (and on any ABL Priority Collateral granted as adequate protection for the holders of any ABL Obligations in respect of their interest in such ABL Priority Collateral) is subordinated to the liens of the ABL Facility Collateral Agent in such ABL Priority Collateral on the same basis as the other liens of the Collateral Agent on ABL Priority Collateral. No holder of any ABL Obligation may seek adequate protection on account of its ABL Lien on the Notes Priority Collateral unless (i) the Holders or holders of Permitted Additional Pari Passu Obligations have been granted adequate protection in the form of a replacement lien on such Notes Priority Collateral, and (ii) any such lien on Notes Priority Collateral (and on any Notes Priority Collateral granted as adequate protection for the Holders or holders of Permitted Additional Pari Passu Obligations in respect of their interest in such Notes Priority Collateral) is subordinated to the liens of the Collateral Agent in such Notes Priority Collateral on the same basis as the other liens of the ABL Facility Collateral Agent on Notes Priority Collateral.

*Plans of Reorganization.* None of the ABL Facility Collateral Agent, the Collateral Agent nor any holder of any ABL Obligations, any Holder or any holder of Permitted Additional Pari Passu Obligations may support any plan of reorganization in any insolvency or liquidation proceeding which contravenes the intercreditor provisions described above (unless consented to by the ABL Facility Collateral Agent or the Collateral Agent, as applicable, representing the holders of the Liens entitled to the benefit of such contravened intercreditor provisions).

**Use and Release of Collateral**

Unless an Event of Default or event of default under any Permitted Additional Pari Passu Obligations shall have occurred and be continuing and the Collateral Agent shall have commenced enforcement of remedies under the Security Documents, except as noted below with respect to Trust Monies or to the extent otherwise provided in the ABL Facility Agreement or other documentation governing the ABL Obligations, the Company will have the right to remain in possession and retain exclusive control of the Collateral (other than as set forth in the Security Documents), to freely operate the Collateral and to collect, invest and dispose of any income thereon.

***Release of Collateral***

The Indenture and the Security Documents provide that the Note Liens will automatically and without the need for any further action by or notice to any Person be released:

(1) in whole or in part, as applicable, as to all or any portion of property subject to such Note Liens which has been taken by eminent domain, condemnation or other similar circumstances;

(2) in whole, as to all property subject to such Note Liens, upon:

(a) satisfaction and discharge of the Indenture as described under the caption Satisfaction and Discharge ; or

(b) a defeasance or covenant defeasance of the Indenture as described under the caption Legal Defeasance and Covenant Defeasance ;

(3) in part, as to any property that (a) is sold, transferred or otherwise disposed of by the Company (other than to the Company or a Guarantor) in a transaction not prohibited by the Indenture at the time of such sale, transfer or disposition, to the extent of the interest sold, transferred or disposed of or (b) is owned or at any time acquired by a Guarantor that has been released from its Guarantee pursuant to the third paragraph of the covenant described under the caption Certain Covenants Subsidiary Guarantees, concurrently with the release of such Guarantee;

(4) as to property that constitutes all or substantially all of the Collateral securing the Notes, with the consent of Holders of at least 75% in aggregate principal amount of the Notes then outstanding as provided under the caption Modification of the Indenture and Security Documents ;

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(5) as to property that constitutes less than all or substantially all of the Collateral securing the Notes, with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding as provided under the caption Modification of the Indenture and Security Documents ; and

(6) in part, in accordance with the applicable provisions of the Security Documents and as described above with respect to the Intercreditor Agreement.

The Indenture provides that, to the extent applicable, the Company will cause Section 313(b) of the TIA and Section 314(d) of the TIA to be complied with after qualification of the Indenture pursuant to the TIA. Any certificate or opinion required by Section 314(d) of the TIA may be made by an officer of the Company except in cases where Section 314(d) of the TIA requires that such certificate or opinion be made by an independent Person, which Person will be an independent appraiser or other expert selected or approved by the Trustee. Notwithstanding anything to the contrary in this paragraph, the Company will not be required to comply with all or any portion of Section 314(d) of the TIA if it determines, in good faith based on advice of counsel, that under the terms of Section 314(d) of the TIA and/or any interpretation or guidance as to the meaning thereof of the Commission and its staff, including no-action letters or exemptive orders, all or any portion of Section 314(d) of the TIA is inapplicable to released Collateral.

***Use of Trust Monies***

All Trust Monies shall be held by (or held in an account subject to the control of) the Collateral Agent as a part of the Notes Priority Collateral securing the Notes and any Permitted Additional Pari Passu Obligations and ABL Obligations and, so long as no Event of Default or event of default under any Permitted Additional Pari Passu Obligations shall have occurred and be continuing, may, subject to certain conditions set forth in the Indenture, at the written direction of the Company, be applied from time to time in accordance with the covenant described under the caption Certain Covenants Limitation on Asset Sales or Certain Covenants Events of Loss, as applicable, or to th payment of the principal of, premium, if any, and interest on any Notes and any Permitted Additional Pari Passu Obligations at maturity or upon redemption or retirement, in each case, in compliance with the Indenture or to any reinvestment permitted by the Indenture or as otherwise required by the Intercreditor Agreement.

***Certain Bankruptcy Limitations***

The right of the Collateral Agent to take possession and dispose of the Collateral following an Event of Default or event of default under any Permitted Additional Pari Passu Obligations is likely to be significantly impaired by applicable bankruptcy law if a bankruptcy proceeding were to be commenced by or against the Company prior to the Collateral Agent having taken possession and disposed of the Collateral. Under the U.S. Bankruptcy Code, a secured creditor is prohibited from taking its security from a debtor in a bankruptcy case, or from disposing of security taken from such debtor, without bankruptcy court approval. Moreover, the U.S. Bankruptcy Code permits the debtor in certain circumstances to continue to retain and to use collateral owned as of the date of the bankruptcy filing (and the proceeds, products, offspring, rents or profits of such Collateral) even though the debtor is in default under the applicable debt instruments; *provided* that the secured creditor is given adequate protection. The meaning of the term adequate protection may vary according to circumstances. In view of the lack of a precise definition of the term adequate protection and the broad discretionary powers of a bankruptcy court, it is impossible to predict how long payments under the Notes could be delayed following commencement of a bankruptcy case, whether or when the Collateral Agent could repossess or dispose of the Collateral, or whether or to what extent Holders would be compensated for any delay in payment or loss of value of the Collateral through the requirement of adequate protection.

Furthermore, in the event a bankruptcy court determines the value of the Collateral (after giving effect to any prior Liens) is not sufficient to repay all amounts due on the Notes and any other Permitted Additional Pari Passu

Obligations, the Holders and the holders of such other Permitted Additional Pari Passu Obligations would hold secured claims to the extent of the value of the Collateral, and would hold unsecured claims with respect to any shortfall. Applicable bankruptcy laws permit the payment and/or accrual of post-petition

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interest, costs and attorneys fees during a debtor s bankruptcy case only to the extent the claims are oversecured or the debtor is solvent at the time of reorganization. In addition, if the Company were to become the subject of a bankruptcy case, the bankruptcy court, among other things, may avoid certain prepetition transfers made by the entity that is the subject of the bankruptcy filing, including, without limitation, transfers held to be preferences or fraudulent conveyances.

**Redemption**

***Optional Redemption on and after February 1, 2015***

Except as described below, the Notes are not redeemable before February 1, 2015. Thereafter, the Company may redeem the Notes at its option, in whole or in part, at any time, upon not less than 30 nor more than 60 days notice, at the following redemption prices (expressed as percentages of the principal amount thereof) if redeemed during the twelve-month period commencing on February 1 of the year set forth below:

| Year | Percentage |
|---|---|
| 2015 | 104.313% |
| 2016 | 102.156% |
| 2017 and thereafter | 100.000% |

In addition, the Company must pay accrued and unpaid interest on the Notes redeemed to but not including the date of redemption (subject to the right of Holders of record on the relevant record date that is on or prior to the redemption date to receive interest due on the relevant interest payment date).

*Optional Redemption upon Qualified Equity Offerings*

At any time, or from time to time, prior to February 1, 2014, the Company may, at its option, use the net cash proceeds of one or more Qualified Equity Offerings to redeem up to 35% of the principal amount of the Notes (including Additional Notes) issued under the Indenture at a redemption price of 108.625% of the principal amount thereof plus accrued and unpaid interest thereon, if any, to but not including the date of redemption (subject to the right of Holders of record on the relevant record date that is on or prior to the redemption date to receive interest due on the relevant interest payment date); *provided* that

(1) at least 65% of the principal amount of Notes (including Additional Notes that are Notes) issued under the Indenture remains outstanding immediately after any such redemption; and

(2) the Company issues a redemption notice not more than 60 days after the consummation of any such Qualified Equity Offering.

*Optional Redemption of up to 10% in any Twelve-Month Period*

At any time, or from time to time prior to February 1, 2015 but not more than once in any twelve-month period, the Company may redeem up to 10% of the original aggregate principal amount of the Notes at a redemption price of 103% of the principal amount thereof plus accrued and unpaid interest thereon, if any, to but not including the date of redemption (subject to the right of Holders of record on the relevant record date that is on or prior to the redemption date to receive interest due on the relevant interest payment date).

*Optional Redemption with Make-Whole Payment*

At any time prior to February 1, 2015 the Company may redeem all or part of the Notes upon not less than 30 nor more than 60 days prior notice at a redemption price equal to the sum of (i) 100% of the principal amount thereof, plus (ii) the Applicable Premium as of the date of the redemption, plus (iii) accrued and unpaid interest thereon, if any, to but not including the date of redemption (subject to the right of Holders of record on the relevant record date that is on or prior to the redemption date to receive interest due on the relevant interest payment date).

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**Open Market Purchases**

The Company may acquire Notes by means other than a redemption, whether by tender offer, open market purchases, negotiated transactions or otherwise, in accordance with applicable securities laws, so long as such acquisition does not otherwise violate the terms of the Indenture.

**Selection and Notice of Redemption**

In the event that the Company chooses to redeem less than all of the Notes, selection of such Notes for redemption will be made by the Trustee either

(1) in compliance with the requirements of the principal national securities exchange**,** if any, on which such Notes are listed; or

(2) on a *pro rata* basis, by lot or by such method as the Trustee shall deem fair and appropriate.

No Notes of a principal amount of $2,000 or less shall be redeemed in part. If a partial redemption is made with the proceeds of a Qualified Equity Offering, the Trustee will select the Notes only on a *pro rata* basis or on as nearly a *pro rata* basis as is practicable (subject to DTC procedures). Notice of redemption will be mailed by first-class mail at least 30 but not more than 60 days before the redemption date to each Holder of Notes to be redeemed at its registered address. If any Note is to be redeemed in part only, then the notice of redemption that relates to such Note must state the portion of the principal amount thereof to be redeemed. A new Note in a principal amount equal to the unredeemed portion thereof will be issued in the name of the Holder thereof upon cancellation of the original Note. On and after the redemption date, interest will cease to accrue on Notes or portions thereof called for redemption as long as the Company has deposited with the Paying Agent funds in satisfaction of the applicable redemption price.

**Change of Control**

Upon the occurrence of a Change of Control, each Holder will have the right to require that the Company purchase all or a portion of such Holder s Notes pursuant to the offer described below (the *Change of Control Offer* ), at a purchase price equal to 101% of the principal amount thereof plus accrued interest, if any, to but not including the date of purchase.

Within 30 days following the date upon which the Change of Control occurred, the Company must send, by first-class mail, a notice to each Holder, with a copy to the Trustee, which notice shall govern the terms of the Change of Control Offer. Such notice shall state, among other things, the purchase date, which must be no earlier than 30 days nor later than 60 days from the date such notice is mailed, other than as may be required by law (the *Change of Control Payment Date* ). Holders electing to have a Note purchased pursuant to a Change of Control Offer will be required to surrender the Note, with the form entitled Option of Holder to Elect Purchase on the reverse of the Note completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day prior to the Change of Control Payment Date.

The Company will not be required to make a Change of Control Offer upon a Change of Control if 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 the Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer or if a notice of redemption to redeem all outstanding Notes has been given pursuant to the Indenture as described above under the caption Redemption. A Change of Control Offer may be made in advance of a Change of Control and conditioned upon the Change of Control if a definitive agreement relating to such Change of Control has been entered into at or prior to the time of making the Change of

Control Offer.

If a Change of Control Offer is made, there can be no assurance that the Company will have available funds sufficient to pay the Change of Control purchase price for all the Notes that might be delivered by Holders seeking to accept the Change of Control Offer. In the event the Company is required to purchase outstanding Notes pursuant to a Change of Control Offer, the Company expects that it would seek third party

financing to the extent it does not have available funds to meet its purchase obligations. However, there can be no assurance that the Company would be able to obtain such financing.

Neither the Board of Directors of the Company nor the Trustee may waive the covenant relating to a Holder s right to require the Company to repurchase Notes upon a Change of Control. Restrictions in the Indenture described herein on the ability of the Company and its Restricted Subsidiaries to incur additional Indebtedness, to grant Liens on its property, to make Restricted Payments (as defined below) and to make Asset Sales may also make more difficult or discourage a takeover of the Company, whether favored or opposed by the management of the Company. Consummation of any such transaction in certain circumstances may require redemption or repurchase of the Notes, and there can be no assurance that the Company or the acquiring party will have sufficient financial resources to effect such redemption or repurchase. Such restrictions and the restrictions on transactions with Affiliates may, in certain circumstances, make more difficult or discourage any leveraged buyout of the Company or any of its Subsidiaries by the management of the Company. While such restrictions cover a wide variety of arrangements which have traditionally been used to effect highly leveraged transactions, the Indenture may not afford the Holders protection in all circumstances from the adverse aspects of a highly leveraged transaction, reorganization, restructuring, merger or similar transaction.

The definition of Change of Control includes a phrase relating to the sale or other transfer of all or substantially all of the assets of the Company. Although there is a developing body of case law interpreting the phrase substantially all, there is no precise definition of the phrase under applicable law. Accordingly, in certain circumstances there may be a degree of uncertainty in ascertaining whether a particular transaction would involve a disposition of all or substantially all of the assets of the Company and therefore it may be unclear as to whether a Change of Control has occurred and whether the Holders have the right to require the Company to repurchase such Notes. In addition, under a recent Delaware Chancery Court interpretation of a change of control repurchase requirement with a continuing director provision, a board of directors may approve a slate of shareholder nominated directors without endorsing them or while simultaneously recommending and endorsing its own slate instead. The foregoing interpretation would permit the Company s Board of Directors to approve a slate of directors that included a majority of dissident directors nominated pursuant to a proxy contest, and the ultimate election of such dissident slate would not constitute a Change of Control that would trigger a Holder s right to require the Company to make an Change of Control Offer as described above.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the Indenture, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under the Change of Control provisions of the Indenture by virtue thereof.

**Certain Covenants**

The Indenture contains, among others, the following covenants:

***Limitation on Incurrence of Additional Indebtedness***

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume, guarantee, acquire, become liable, contingently or otherwise, with respect to or otherwise become responsible for payment of (collectively, *incur* ) any Indebtedness (including Acquired Indebtedness) and the Company will not permit any of its Restricted Subsidiaries to issue any Preferred Stock; *provided*, *however*, that the Company or any Guarantor may incur Indebtedness and any Guarantor may issue Preferred Stock, and, subject to the third paragraph of

this covenant, any Foreign Restricted Subsidiary of the Company that is not a Guarantor may incur Indebtedness, in each case if on the date of the incurrence of such Indebtedness or issuance of Preferred Stock, after giving effect to the incurrence or issuance thereof, the Consolidated Fixed Charge Coverage Ratio of the Company would have been greater than 2.0 to 1.0.

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Notwithstanding the foregoing, the Company and its Restricted Subsidiaries may incur Permitted Indebtedness.

Foreign Restricted Subsidiaries that are not Guarantors may not incur Indebtedness under the first paragraph of this covenant if on the date of the incurrence of such Indebtedness, after giving effect to the incurrence thereof, the aggregate amount of Indebtedness of Foreign Restricted Subsidiaries that are not Guarantors incurred and then outstanding pursuant to the first paragraph of this covenant would exceed the greater of (x) $200.0 million and (y) 20.0% of Total Assets of all Foreign Restricted Subsidiaries that are not Guarantors at the time of such incurrence.

The Company will not, and will not permit any Guarantor to, directly or indirectly, incur any Indebtedness which by its terms (or by the terms of any agreement governing such Indebtedness) is expressly subordinated in right of payment to any other Indebtedness of the Company or such Guarantor, as the case may be, unless such Indebtedness is also by its terms (or by the terms of any agreement governing such Indebtedness) made expressly subordinate to the Notes or the applicable Guarantee, as the case may be, to the same extent and in the same manner as such Indebtedness is subordinated to other Indebtedness of the Company or such Guarantor, as the case may be. For purposes of the foregoing, no Indebtedness will be deemed to be subordinated in right of payment to any other Indebtedness of the Company or any Guarantor solely by virtue of such Indebtedness being unsecured or by virtue of the fact that the holders of such Indebtedness have entered into one or more intercreditor agreements giving one or more of such holders priority over the other holders in the collateral held by them.

***Limitation on Restricted Payments***

The Company will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any distribution on or in respect of shares of the Company s or any of its Restricted Subsidiaries Capital Stock to holders of such Capital Stock (other than (i) dividends or distributions by the Company payable in Qualified Capital Stock of the Company or (ii) dividends or distributions by a Restricted Subsidiary; *provided* that, in the case of any dividend or distribution payable by a Restricted Subsidiary other than a Wholly Owned Restricted Subsidiary, the Company or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its ownership interest in such class or series of Capital Stock);

(2) purchase, redeem or otherwise acquire or retire for value any Capital Stock of the Company;

(3) make any principal payment on, purchase, defease, redeem, decrease or otherwise acquire or retire for value, prior to any scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness (other than the purchase, defeasance, redemption, other acquisition or retirement of such Subordinated Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, defeasance, redemption, other acquisition or retirement); or

(4) make any Investment (other than Permitted Investments)

(each of the foregoing actions set forth in clauses (1), (2), (3) and (4) being referred to as a *Restricted Payment* ); if at the time of such Restricted Payment or immediately after giving effect thereto:

(i) a Default or an Event of Default shall have occurred and be continuing;

(ii) the Company is not able to incur at least $1.00 of additional Indebtedness pursuant to the Consolidated Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described under the caption Limitation on Incurrence of Additional Indebtedness ; or

(iii) the aggregate amount of Restricted Payments (including such proposed Restricted Payment) made subsequent to the Issue Date (the amount expended for such purposes, if other than in cash, being

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the fair market value of such property as determined in good faith by the Board of Directors of the Company or Restricted Subsidiary, as applicable) shall exceed the sum of:

(u) 50% of Consolidated Net Income for the period (taken as one accounting period) commencing on the first day of the fiscal quarter beginning following the quarter in which the Issue Date occurs to and including the last day of the fiscal quarter ended immediately prior to the date of such calculation for which internal financial statements are available (or, if such Consolidated Net Income shall be a deficit, minus 100% of such aggregate deficit), plus

(v) 100% of the aggregate net cash proceeds and the fair market value, as determined in good faith by the Board of Directors of the Company, of property and marketable securities received by the Company from any Person (other than a Subsidiary of the Company) from the issuance and sale subsequent to the Issue Date and on or prior to the date the Restricted Payment occurs (the *Reference Date* ) of Qualified Capital Stock of the Company (but excluding any debt security that is convertible into or exchangeable for Qualified Capital Stock); plus

(w) without duplication of any amounts included in clause (iii)(v) above, 100% of the aggregate net cash proceeds and the fair market value, as determined in good faith by the Board of Directors of the Company, of property and marketable securities of any equity contribution received by the Company from a holder of the Company s Qualified Capital Stock subsequent to the Issue Date and on or prior to the Reference Date (excluding, in the case of clauses (iii)(v) and (w), any net cash proceeds from a Qualified Equity Offering to the extent used to redeem the Notes in compliance with the provisions set forth under the caption Redemption Optional Redemption upon Qualified Equity Offerings ); plus

(x) 100% of the aggregate amount by which Indebtedness incurred by the Company or any Restricted Subsidiary subsequent to the Issue Date is reduced on the Company s balance sheet upon the conversion or exchange (other than by a Subsidiary of the Company) into Qualified Capital Stock of the Company (less the amount of any cash, or the fair value of assets, distributed by the Company or any Restricted Subsidiary upon such conversion or exchange); plus

(y) 100% of the aggregate amount received in cash and the fair market value, as determined in good faith by the Board of Directors of the Company, of property and marketable securities received by means of (A) the sale or other disposition (other than to the Company or a Restricted Subsidiary) of all or any portion of any Restricted Investments made by the Company or its Restricted Subsidiaries (other than Restricted Investments made pursuant to clause (12) of the next paragraph) and repurchases and redemptions of such Restricted Investments from the Company or its Restricted Subsidiaries and repayments of or interest payments made in respect of any loans or advances which constitute Restricted Investments by the Company or its Restricted Subsidiaries or any dividends or other distributions made or payments made with respect to any Restricted Investment by the Company or any Restricted Subsidiary (other than Restricted Investments made pursuant to clause (12) of the next paragraph) or (B) the sale (other than to the Company or a Restricted Subsidiary) of the Capital Stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary or a dividend from an Unrestricted Subsidiary (in each case, other than any Unrestricted Subsidiary to the extent funded with Restricted Investments made pursuant to clause (12) of the next paragraph); plus

(z) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger or consolidation of an Unrestricted Subsidiary into the Company or a Restricted Subsidiary or the transfer of assets of an Unrestricted Subsidiary to the Company or a Restricted Subsidiary (in each case, other than any Unrestricted Subsidiary to the extent funded with Restricted Investments made pursuant to clause (12) of the next paragraph), the fair market value of the Investment in such Unrestricted Subsidiary, as determined in good faith by the Board of Directors of the Company at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary or at the time of such merger, consolidation or transfer of assets.

Notwithstanding the foregoing, the provisions set forth in the immediately preceding paragraph do not prohibit:

(1) the payment of any dividend or other distribution within 60 days after the date of declaration of such dividend or other distribution if the dividend or other distribution would have been permitted on the date of declaration;

(2) the acquisition of any shares of Capital Stock of the Company either (i) solely in exchange for shares of Qualified Capital Stock of the Company or (ii) through the application of net proceeds of a substantially concurrent sale (other than to a Subsidiary of the Company) of shares of Qualified Capital Stock of the Company;

(3) the redemption, repurchase, defeasance, retirement or other acquisition of any Subordinated Indebtedness either (i) solely in exchange for shares of Qualified Capital Stock of the Company, (ii) through the application of net proceeds of a substantially concurrent sale or incurrence (other than to a Subsidiary of the Company), as applicable, of (a) shares of Qualified Capital Stock of the Company, or (b) Refinancing Indebtedness or (iii) upon a Change of Control or in connection with an Asset Sale to the extent required by the agreement governing such Subordinated Indebtedness but only if the Company shall have complied with the covenants described under the captions Change of Control and Limitation on Asset Sales and purchased all Notes validly tendered pursuant to the relevant offer prior to redeeming such Subordinated Indebtedness;

(4) so long as no Default or Event of Default shall have occurred and be continuing, repurchases by the Company of Capital Stock of the Company from current or former officers, directors, employees and consultants of the Company or any of its Subsidiaries or their authorized representatives (or their transferees, estates or beneficiaries under their estates) upon the death, disability, severance or termination of employment of such employees or termination of their seat on the board of the Company or any Subsidiary in an aggregate amount not to exceed (A) $2.5 million in any calendar year with unused amounts being available to be used in succeeding calendar years subject to a maximum of $5.0 million in any calendar year (without giving effect to clauses (B) and (C)) plus (B) the amount of any net cash proceeds received by or contributed to the Company from the issuance and sale after the Issue Date of Qualified Capital Stock of the Company to its officers, directors, employees or consultants (provided that the net cash proceeds of such issuance or contribution shall be excluded from clauses (iii)(v) and (w) above) plus (C) the net cash proceeds of any key-man life insurance policies;

(5) the redemption, repurchase, retirement or other acquisition of any Capital Stock of the Company upon the exercise or vesting of warrants, options or similar rights if such Capital Stock constitutes all or a portion of the exercise price or is surrendered in connection with satisfying any federal or state income tax obligation incurred in connection with such exercise or vesting;

(6) the declaration and payment of regularly scheduled or accrued dividends or distributions to (i) the holders of any class or series of Disqualified Capital Stock of the Company or any Restricted Subsidiary issued on or after the date of the Indenture in accordance with the Consolidated Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described under the caption Limitation on Incurrence of Additional Indebtedness or (ii) the holders of any class or series of Preferred Stock (other than Disqualified Capital Stock) of the Company or any Guarantor issued after the date of the Indenture; *provided* that (x) at the time of such issuance and after giving pro forma effect thereto, the Company would have been able to incur at least $1.00 of additional Indebtedness pursuant to the Consolidated Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described under the caption Limitation on Incurrence of Additional Indebtedness and (y) the net cash proceeds of such issuance of Preferred Stock shall be excluded from clause (iii)(v) above;

(7) Investments that are made with Excluded Contributions;

(8) the repurchase, redemption or other acquisition for value of Capital Stock of the Company representing fractional shares of such Capital Stock in connection with a merger, consolidation, amalgamation or other combination involving the Company;

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(9) the redemption, repurchase, retirement or other acquisition, in each case for nominal value per right, of any rights granted to all holders of Common Stock of the Company pursuant to any stockholders rights plan, including, without limitation, the Rights Plan, adopted for the purpose of protecting stockholders from unfair takeover tactics; *provided* that any such redemption, repurchase, retirement or other acquisition of such rights shall not be for the purpose of evading the limitations of this covenant;

(10) so long as no Default or Event of Default shall have occurred and be continuing, the redemption, repurchase, defeasance, retirement or other acquisition of the Convertible Notes;

(11) so long as no Default or Event of Default shall have occurred and be continuing, the declaration and payment of dividends to holders of Common Stock of the Company in an aggregate amount not to exceed $10.0 million in any fiscal year; and

(12) so long as no Default or Event of Default shall have occurred and be continuing, other Restricted Payments, in an aggregate amount which, when taken together with all other Restricted Payments pursuant to this clause (12), does not exceed $30.0 million at any one time outstanding.

In determining the aggregate amount of Restricted Payments made subsequent to the Issue Date in accordance with clause (iii) of the immediately preceding paragraph, amounts expended pursuant to clauses (1), (11) and, to the extent of any proceeds that increase the amount available for Restricted Payments pursuant to (iii)(v) above, (2)(ii) and (3)(ii)(a) shall be included in such calculation. The Company, in its sole discretion, may classify any Investment or other Restricted Payment as being made in part under one of the provisions of this covenant (or, in the case of any Investment, the clauses of Permitted Investments) and in part under one or more other such provisions (or, as applicable, clauses).

***Limitation on Asset Sales***

The Company will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1) the Company or the applicable Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the fair market value of the assets sold or otherwise disposed of (as determined in good faith by the Company s Board of Directors);

(2) at least 75% of the consideration received by the Company or such Restricted Subsidiary, as the case may be, from such Asset Sale shall be in the form of cash or Cash Equivalents; *provided* that the following shall be deemed to be cash for purposes of this provision:

(a) the fair market value of (i) any assets (other than securities) received by the Company or any Restricted Subsidiary to be used by it in a Permitted Business and (ii) Capital Stock in a Person that is a Restricted Subsidiary or in a Person engaged in a Permitted Business that shall become a Restricted Subsidiary immediately upon the acquisition of such Person;

(b) any Designated Non-cash Consideration received by the Company or any of its Restricted Subsidiaries in such Asset Sale having an aggregate fair market value, taken together with all other Designated Non-cash Consideration received since the date of the Indenture pursuant to this clause (b) that is at that time outstanding, not to exceed $25.0 million at the time of the receipt of such Designated Non-cash Consideration (with the fair market value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value);

(c) the amount of any securities, notes or other obligations received from such transferee that are within 180 days converted by the Company or such Restricted Subsidiary to cash; and

(d) the amount of any liabilities (as shown on the Company s or such Restricted Subsidiary s most recent balance sheet) of the Company or such Restricted Subsidiary (other than (x) in the case of an Asset Sale not involving Collateral, Subordinated Indebtedness or (y) in the case of an Asset

Sale involving Collateral, unsecured Indebtedness or Indebtedness secured by a junior priority lien on the Collateral) that are assumed by the transferee of any such assets; and

(3) if such Asset Sale involves the disposition of Notes Priority Collateral or, after the Discharge of ABL Obligations, the disposition of ABL Priority Collateral, the Net Cash Proceeds thereof shall be paid directly by the purchaser of the Collateral to the Collateral Agent for deposit into the Collateral Account pending application in accordance with the provisions described below, and, if any property other than cash or Cash Equivalents is included in such Net Cash Proceeds, such property shall be made subject to the Note Liens; and

(4) upon the consummation of an Asset Sale, the Company shall apply, or cause such Restricted Subsidiary to apply, the Net Cash Proceeds relating to such Asset Sale within 364 days of receipt thereof:

(a) to the extent such Net Cash Proceeds constitute proceeds from the sale of (x) ABL Priority Collateral or assets that are not Collateral, to repay permanently any Indebtedness under the ABL Facility Agreement or any other Credit Facility then outstanding as required by the terms thereof (and to effect a permanent reduction in the availability under the ABL Facility Agreement or any other Credit Facility) or (y) assets of a Restricted Subsidiary that is not a Guarantor, to repay Indebtedness of a Restricted Subsidiary that is not a Guarantor;

(b) to acquire (or enter into a legally binding agreement to acquire) all or substantially all of the assets of, or a majority of the Voting Stock of, a Permitted Business; *provided* that to the extent such Net Cash Proceeds are received in respect of Notes Priority Collateral, such Net Cash Proceeds are applied to acquire assets substantially all of which constitute Notes Priority Collateral;

(c) to make a capital expenditure; *provided* that to the extent such Net Cash Proceeds are received in respect of Notes Priority Collateral, such expenditures shall relate to Notes Priority Collateral;

(d) to invest the Net Cash Proceeds (or enter into a legally binding agreement to invest) in Replacement Assets; *provided* that to the extent such Net Cash Proceeds are received in respect of Notes Priority Collateral, substantially all of such Replacement Assets constitute Notes Priority Collateral; or

(e) any combination of prepayment and investment permitted by the foregoing clauses (4)(a), (4)(b), (4)(c) and (4)(d).

Pending the final application of such Net Cash Proceeds (other than Net Cash Proceeds that constitute Trust Monies), the Company may temporarily reduce borrowings under the ABL Facility Agreement or any other revolving credit facility. On the 365th day after an Asset Sale or such earlier date, if any, on which the Board of Directors of the Company or of such Restricted Subsidiary determines not to apply the Net Cash Proceeds relating to such Asset Sale as set forth in clauses (4)(a), (4)(b), (4)(c), (4)(d) or (4)(e) of the preceding paragraph (each, a *Net Proceeds Offer Trigger Date*), such aggregate amount of Net Cash Proceeds which have not been applied on or before such Net Proceeds Offer Trigger Date as permitted in clauses (4)(a), (4)(b), (4)(c), (4)(d) or (4)(e) of the preceding paragraph (each, a *Net Proceeds Offer Amount*) shall be applied by the Company or such Restricted Subsidiary to make an offer to purchase (the *Net Proceeds Offer*) to all Holders and (x) in the case of Net Cash Proceeds from an Asset Sale of Notes Priority Collateral, to the holders of any Permitted Additional Pari Passu Obligations to the extent required by the terms thereof or (y) in the case of any other Net Cash Proceeds, to all holders of other Pari Passu Indebtedness to the extent required by the terms thereof, in each case, to purchase or redeem the Notes and such Permitted Additional Pari Passu Obligations or other Pari Passu Indebtedness, as the case may be, on a date (the *Net Proceeds Offer Payment Date*) not less than 30 nor more than 45 days following the applicable Net Proceeds Offer Trigger Date, from all Holders (and holders of any such Permitted Additional Pari Passu Obligations or Pari Passu Indebtedness, as the case may be) on a *pro rata* basis, that amount of Notes (and Permitted Additional Pari Passu Obligations or Pari Passu Indebtedness, as the case may be) equal to the Net Proceeds Offer Amount at a price equal to 100% of the principal

amount of the Notes (and Permitted Additional Pari Passu Obligations or Pari Passu Indebtedness, as the case may be) to be purchased, plus accrued and unpaid

interest thereon, if any, to but not including the date of purchase; *provided*, *however*, that if at any time any non-cash consideration received by the Company or any Restricted Subsidiary of the Company, as the case may be, in connection with any Asset Sale is converted into or sold or otherwise disposed of for cash (other than interest received with respect to any such non-cash consideration), then such conversion or disposition shall be deemed to constitute an Asset Sale hereunder and the Net Cash Proceeds thereof shall be applied in accordance with this covenant.

The Company shall have no obligation to make a Net Proceeds Offer under this covenant until the date which is 10 Business Days after the date on which there is an aggregate unutilized Net Proceeds Offer Amount equal to or in excess of $20.0 million resulting from one or more Asset Sales (at which time, the entire unutilized Net Proceeds Offer Amount, and not just the amount in excess of $20.0 million, shall be applied as required pursuant to the preceding paragraph).

Each Net Proceeds Offer will be mailed to the record Holders as shown on the register of Holders following the Net Proceeds Offer Trigger Date, with a copy to the Trustee, and shall comply with the procedures set forth in the Indenture. Upon receiving notice of the Net Proceeds Offer, Holders may elect to tender their Notes in whole or in part in minimum denominations of $2,000 and integral multiples of $1,000 in excess thereof (except that no partial purchase will be permitted that would result in a Note having a remaining principal amount of less than $2,000) in exchange for cash. To the extent Holders properly tender Notes and holders of Permitted Additional Pari Passu Obligations or Pari Passu Indebtedness, as the case may be, properly tender such Permitted Additional Pari Passu Obligations or Pari Passu Indebtedness, as the case may be in an amount exceeding the Net Proceeds Offer Amount, the tendered Notes and Permitted Additional Pari Passu Obligations or Pari Passu Indebtedness, as the case may be, will be purchased on a *pro rata* basis based on the aggregate amounts of Notes and Permitted Additional Pari Passu Obligations or Pari Passu Indebtedness tendered, as the case may be, (and the Trustee shall select the tendered Notes of tendering Holders on a *pro rata* basis based on the amount of Notes tendered). A Net Proceeds Offer shall remain open for a period of 20 Business Days or such longer period as may be required by law. If any Net Cash Proceeds remain after the consummation of any Net Proceeds Offer, the Company may use those Net Cash Proceeds for any purpose not otherwise prohibited by the Indenture; *provided* that any such remaining Net Cash Proceeds shall to the extent received in respect of Notes Priority Collateral remain subject to the Lien of the Security Documents and shall continue to constitute Trust Monies. Upon completion of each Net Proceeds Offer, the amount of Net Cash Proceeds will be reset at zero.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of Notes pursuant to a Net Proceeds Offer. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions of the Indenture, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under the Asset Sale provisions of the Indenture by virtue thereof.

***Events of Loss***

In the event of an Event of Loss, the Company or the affected Restricted Subsidiary of the Company, as the case may be, may apply the Net Loss Proceeds from such Event of Loss to the rebuilding, repair, replacement or construction of improvements to the Notes Priority Collateral affected by such Event of Loss, with no concurrent obligation to offer to purchase any of the Notes; *provided, however,* that the Company delivers to the Trustee, within 90 days of receipt of such Net Loss Proceeds, an Officers Certificate certifying that the Company has available from such Net Loss Proceeds or other sources sufficient funds to complete such rebuilding, repair, replacement or construction.

Any Net Loss Proceeds that are not reinvested or not permitted to be reinvested as provided in the previous sentence will be deemed to be *Excess Loss Proceeds.* When the aggregate amount of Excess Loss Proceeds exceeds

$20.0 million, within thirty days thereof, or earlier at the option of the Company, the Company will make an offer (an *Event of Loss Offer*) to all Holders of Notes and to the holders of any Permitted Additional Pari Passu Obligations to the extent required by the terms thereof to purchase or redeem

the Notes and such Permitted Additional Pari Passu Obligations in an amount equal to the maximum principal amount thereof that may be purchased out of the Excess Loss Proceeds. The offer price in any Event of Loss Offer will be equal to 100% of the principal amount plus accrued and unpaid interest, if any, to the date of purchase, and will be payable in cash. Each Event of Loss Offer will be mailed to the record Holders as shown on the register of Holders, with a copy to the Trustee, and shall comply with the procedures set forth in the Indenture. Upon receiving notice of the Event of Loss Offer, Holders may elect to tender their Notes in whole or in part in minimum denominations of $2,000 and integral multiples of $1,000 in excess thereof (except that no partial purchase will be permitted that would result in a Note having a remaining principal amount of less than $2,000) in exchange for cash. To the extent Holders properly tender Notes and holders of Permitted Additional Pari Passu Obligations properly tender such Permitted Additional Pari Passu Obligations in an amount exceeding the Excess Loss Proceeds, the tendered Notes and Permitted Additional Pari Passu Obligations will be purchased on a *pro rata* basis based on the aggregate amounts of Notes and Permitted Additional Pari Passu Obligations tendered (and the Trustee shall select the tendered Notes of tendering Holders on a *pro rata* basis based on the amount of Notes tendered). An Event of Loss Offer shall remain open for a period of 20 Business Days or such longer period as may be required by law. If any Excess Loss Proceeds remain after consummation of any Event of Loss Offer, the Company may use those Excess Loss Proceeds for any purpose not otherwise prohibited by the Indenture; *provided* that any such remaining Excess Loss Proceeds shall remain subject to the Lien of the Security Documents and shall continue to constitute Trust Monies. Upon completion of each Event of Loss Offer, the amount of Excess Loss Proceeds will be reset at zero.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of Notes pursuant to an Event of Loss Offer. To the extent that the provisions of any securities laws or regulations conflict with the Event of Loss provisions of the Indenture, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under the Event of Loss provisions of the Indenture by virtue thereof.

***Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries***

The Company will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary of the Company to:

(1) pay dividends or make any other distributions on or in respect of its Capital Stock (it being understood that the priority of any Preferred Stock issued by a Restricted Subsidiary in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid by such Restricted Subsidiary on its common stock will not be deemed an encumbrance or restriction on its ability to make distributions on its Capital Stock);

(2) make loans or advances to the Company or any other Restricted Subsidiary or pay any Indebtedness or other obligation owed to the Company or any other Restricted Subsidiary of the Company (it being understood that the subordination in right of payment of any obligation owed by a Restricted Subsidiary to any other obligation owed by such Restricted Subsidiary will not be deemed an encumbrance or restriction on its ability to pay such obligation); or

(3) transfer any of its property or assets to the Company or any other Restricted Subsidiary of the Company, except in each case for such encumbrances or restrictions existing under or by reason of:

(a) applicable law;

(b) the Indenture, the Notes, the Exchange Notes, if any, issued in exchange for the Notes issued on the Issue Date, the Guarantees (including any Guarantees related to the Exchange Notes), if any, and the Security Documents;

(c) customary non-assignment provisions of any contract or any lease governing a leasehold interest or any license agreement of any Restricted Subsidiary of the Company or customary

provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any of its Restricted Subsidiaries entered into in the ordinary course of business;

(d) any agreement or other instrument (including those governing Acquired Indebtedness or Capital Stock) of a Person, or any encumbrance or restriction on the property of such Person, acquired by the Company or any Restricted Subsidiary which was in existence at the time of such acquisition (but not created in contemplation thereof or to provide all or any portion of the funds or credit support utilized to consummate such acquisition), which agreement, encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person or the properties or assets of the Person so acquired;

(e) encumbrances or restrictions existing and in effect on the Issue Date, to the extent and in the manner such encumbrances or restrictions are in effect on the Issue Date;

(f) encumbrances or restrictions existing under the ABL Facility Agreement as in effect on the Issue Date or pursuant to amendments or modifications thereto; *provided*, *however*, that the provisions relating to such encumbrances or restrictions contained in any such amendment or modification are not materially more restrictive with respect to such encumbrances and restrictions, taken as a whole (as determined by the Board of Directors of the Company in its reasonable and good faith judgment), than the provisions relating to such encumbrances or restrictions contained in ABL Facility Agreement as in effect on the Issue Date;

(g) restrictions on the transfer of assets or property subject to any Lien permitted under the Indenture imposed by the holder of such Lien or any agreement or instrument with respect thereto;

(h) encumbrances or restrictions imposed by any asset sale agreement, sale-leaseback agreement, stock sale agreement or other agreement to sell assets or Capital Stock, in each case, permitted under the Indenture, to any Person pending the closing of such sale, which restricts distributions by such Restricted Subsidiary or transfers of the assets that are the subject of such agreement;

(i) any Purchase Money Note or other Indebtedness or contractual requirements incurred with respect to a Qualified Receivables Transaction relating exclusively to a Receivables Entity that, in the good faith determination of the Board of Directors, are necessary to effect such Qualified Receivables Transaction;

(j) customary provisions in joint venture agreements, partnership agreements, limited liability company, organizational and governance documents or other similar agreements (in each case relating solely to the respective joint venture, partnership, limited liability company or similar entity or the equity interests therein) entered into in the ordinary course of business;

(k) an agreement governing Indebtedness incurred to Refinance the Indebtedness issued, assumed or incurred pursuant to an agreement referred to in clauses (b), (d), (e) and (f) above; *provided*, *however*, that the provisions relating to such encumbrance or restriction contained in any such Indebtedness are not materially more restrictive with respect to such encumbrances and restrictions, taken as a whole (as determined by the Board of Directors of the Company in its reasonable and good faith judgment), than the provisions relating to such encumbrance or restriction contained in agreements referred to in such clauses (b), (d), (e) and (f);

(l) any other agreement governing Indebtedness entered into after the Issue Date that contains encumbrances and restrictions (x) that are not materially more restrictive than those in effect on the Issue Date with respect to that Restricted Subsidiary pursuant to agreements in effect on the Issue Date, (y) with respect to any Indebtedness incurred pursuant to clauses (2), (14) and (15) of the definition of Permitted Indebtedness and the Consolidated Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described under the caption Limitation on

Incurrence of Additional Indebtedness, that are not materially more restrictive, taken as a whole (as determined by the Board of Directors of the Company in its reasonable and good faith judgment), than those

imposed pursuant to the ABL Facility Agreement as in effect on the Issue Date or (z) that are not reasonably expected to make the Company unable to make principal or interest payments on the Notes, as determined in good faith by the Board of Directors of the Company;

(m) Purchase Money Indebtedness or Capitalized Lease Obligations incurred in compliance with the covenant described under the caption Limitation on Incurrence of Additional Indebtedness ; *provided* that such encumbrances or restrictions only apply to the property or assets acquired with such Purchase Money Indebtedness or Capitalized Lease Obligations;

(n) encumbrances or restrictions arising out of Permitted Tax Abatement Transactions; *provided* that such encumbrances or restrictions only apply to the property or assets that are the subject of such Permitted Tax Abatement Transactions;

(o) encumbrances or restrictions applicable to Government Grant Property; *provided* that such encumbrances or restrictions only apply to such Government Grant Property; and

(p) restrictions on cash or other deposits or net worth imposed by suppliers, customers or landlords under contracts entered into in the ordinary course of business.

***Limitation on Preferred Stock of Restricted Subsidiaries***

The Company will not permit any of its Restricted Subsidiaries that are not Guarantors to issue any Preferred Stock (other than to the Company or to a Wholly Owned Restricted Subsidiary of the Company) or permit any Person (other than the Company or a Wholly Owned Restricted Subsidiary of the Company) to own any Preferred Stock of any Restricted Subsidiary that is not a Guarantor of the Company.

***Limitation on Liens***

The Company will not, and will not permit any of its Restricted Subsidiaries, directly or indirectly, to, enter into, create, incur, assume or suffer to exist any Liens of any kind, other than Permitted Collateral Liens, on or with respect to the Collateral. Subject to the immediately preceding sentence, the Company will not, and will not permit any of its Restricted Subsidiaries, directly or indirectly, to, enter into, create, incur, assume or suffer to exist any Liens of any kind, other than Permitted Liens, on or with respect to any property or assets of the Company or any Restricted Subsidiary now owned or hereafter acquired or any interest therein or any income or profits therefrom.

***Merger, Consolidation and Sale of Assets***

The Company will not, in a single transaction or series of related transactions, consolidate or merge with or into any Person, or sell, assign, transfer, lease, convey or otherwise dispose of (or cause or permit any Restricted Subsidiary of the Company to sell, assign, transfer, lease, convey or otherwise dispose of) all or substantially all of the Company s assets (determined on a consolidated basis for the Company and the Company s Restricted Subsidiaries), whether as an entirety or substantially as an entirety to any Person, unless:

(1) either:

(a) the Company shall be the surviving or continuing corporation; or

(b) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of

the Company and of the Company s Restricted Subsidiaries substantially as an entirety (the *Surviving Entity* ):

(x) shall be a corporation organized and validly existing under the laws of the United States or any State thereof or the District of Columbia; and

(y) shall expressly assume, by supplemental indenture (in form and substance satisfactory to the Trustee) executed and delivered to the Trustee, the due and punctual payment of the principal of and

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premium, if any, and interest on all of the Notes and the performance of every covenant of the Notes, the Indenture, the Registration Rights Agreement and the Security Documents on the part of the Company to be performed or observed;

(2) immediately after giving effect to such transaction and the assumption contemplated by clause (1)(b)(y) above (including giving effect to any Indebtedness and Acquired Indebtedness incurred or anticipated to be incurred in connection with or in respect of such transaction), the Company or such Surviving Entity, as the case may be, (i) shall be able to incur at least $1.00 of additional Indebtedness pursuant to the Consolidated Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described under the caption Limitation on Incurrence of Additional Indebtedness or (ii) the Consolidated Fixed Charge Coverage Ratio of the Company or the Surviving Entity, as the case may be, would be greater than the Consolidated Fixed Charge Coverage Ratio of the Company immediately prior to such transaction; and

(3) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (1)(b)(y) above (including, without limitation, giving effect to any Indebtedness and Acquired Indebtedness incurred or anticipated to be incurred and any Lien granted in connection with or in respect of the transaction), no Default or Event of Default shall have occurred or be continuing.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Restricted Subsidiaries of the Company, the Capital Stock of which constitutes all or substantially all of the properties and assets of the Company, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

Notwithstanding the foregoing clauses (1), (2) and (3), (A) the Company may (i) consolidate with, merge with or into or transfer all or part of its properties and assets to any Restricted Subsidiary so long as the Company is the survivor of such merger or consolidation or all assets of the Company immediately prior to such transaction are owned by the Company and/or such Restricted Subsidiary immediately after the consummation thereof and (ii) merge with an Affiliate that is a Person that has no material assets or liabilities prior to such merger and which was organized solely for the purpose of (x) reorganizing the Company in another jurisdiction or (y) the creation of a holding company of the Company and (B) any Restricted Subsidiary that is not a Guarantor may (x) dissolve, liquidate or wind-up; *provided* that all of such Restricted Subsidiary s assets are distributed to the Company or a Restricted Subsidiary in connection with such liquidation, dissolution or winding-up or (y) consolidate with, merge with or into, the Company or any other Restricted Subsidiary or transfer all or part of its properties and assets to the Company or any Restricted Subsidiary so long as the Company or a Restricted Subsidiary is the survivor of such merger or consolidation or all assets of such Restricted Subsidiary immediately prior to such transaction are owned by the Company or a Restricted Subsidiary immediately after the consummation thereof.

The Indenture provides that upon any consolidation, combination or merger or any transfer of all or substantially all of the assets of the Company in accordance with the foregoing in which the Company is not the continuing corporation, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, lease or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under the Indenture and the Notes with the same effect as if such Surviving Entity had been named as such.

Each Guarantor, if any (other than any Guarantor whose Guarantee is to be released in accordance with the terms of the Guarantee and the Indenture in connection with any transaction complying with the provisions of Limitation on Asset Sales ), will not, and the Company will not cause or permit any Guarantor to, consolidate with or merge with or into any Person other than the Company or any other Guarantor unless:

(1) the entity formed by or surviving any such consolidation or merger (if other than the Guarantor) or to which such sale, lease, conveyance or other disposition shall have been made is (A) a corporation organized and existing under the laws of the United States or any State thereof or the District of

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Columbia or (B) an entity organized and existing under the jurisdiction of organization of such Guarantor;

(2) such entity assumes by supplemental indenture all of the obligations of the Guarantor on the Guarantee and the performance of every covenant of the Indenture, the Registration Rights Agreement and the Security Documents on the part of such Guarantor to be performed or observed;

(3) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing; and

(4) immediately after giving effect to such transaction and the use of any net proceeds therefrom on a *pro forma* basis, the Company could satisfy the provisions of clause (2) of the first paragraph of this covenant.

Any merger or consolidation of a Guarantor with and into the Company (with the Company being the surviving entity) or another Guarantor that is a Wholly Owned Restricted Subsidiary of the Company need not comply with this covenant other than as set forth below.

The following additional conditions shall apply to each transaction described above:

(1) the Company, such Guarantor or the relevant surviving entity, as applicable, will cause to be filed such amendments or other instruments, if any, and cause to be recorded in such jurisdictions as may be required by applicable law to preserve and protect the Lien of the Security Documents on the Collateral owned by or transferred to such Person, together with such financing statements as may be required to perfect any security interests in such Collateral that may be perfected by the filing of a financing statement under the Uniform Commercial Code of the relevant states;

(2) the Collateral owned by or transferred to the Company, such Guarantor or the relevant surviving entity, as applicable, shall (a) continue to constitute Collateral under the Indenture and the Security Documents with the same relative priorities as existed immediately prior to such transaction; and (b) not be subject to any Lien other than Liens permitted by the Indenture and the Security Documents;

(3) the assets of the Person which is merged or consolidated with or into the relevant surviving entity, to the extent that they are assets of the types which would constitute Collateral under the Security Documents and which would be required to be pledged thereunder, shall be treated as after-acquired property and such surviving entity shall take such action as may be reasonably necessary to cause such assets to be made subject to the Lien of the Security Documents in the manner and to the extent required in the Indenture; and

(4) the Company shall have delivered to the Trustee an Officers Certificate and an opinion of counsel, each stating that such transaction and, if a supplemental indenture or supplemental Security Documents are required in connection with such transaction, such supplemental indenture and Security Documents comply with the applicable provisions of the Indenture, that all conditions precedent in the Indenture relating to such transaction have been satisfied and that such supplemental indenture and Security Documents are enforceable, subject to customary qualifications.

***Limitations on Transactions with Affiliates***

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into any transaction or series of related transactions (including, without limitation, the purchase, sale, lease or exchange of any property or the rendering of any service) with, or for the benefit of, any of its Affiliates (each, an Affiliate Transaction ), unless (i) such Affiliate Transaction is on terms that are no less favorable than those that might reasonably have been obtained in a comparable transaction at such time on an arm s-length basis from a Person that is

not an Affiliate of the Company or such Restricted Subsidiary and (ii) (A) if such Affiliate Transaction (or series of related Affiliate Transactions) involves aggregate consideration in excess of $15.0 million, the terms of such Affiliate Transaction (or series of related Affiliate Transactions) have been approved by the Board of Directors including a majority of the Disinterested Directors of the Company or such Restricted Subsidiary pursuant to a Board Resolution stating that such Affiliate Transaction

(or series of related Affiliate Transactions) complies with clause (i) above and (B) if such Affiliate Transaction (or series of related Affiliate Transactions) involves aggregate consideration in excess of $30.0 million (or if there are no Disinterested Directors with respect to such Affiliate Transaction (or series of related Affiliate Transactions)), the Company or such Restricted Subsidiary, as the case may be, prior to the consummation thereof, obtains a favorable opinion as to the fairness of such transaction or series of related transactions to the Company or the relevant Restricted Subsidiary, as the case may be, from a financial point of view, from an Independent Financial Advisor and files the same with the Trustee.

(b) The restrictions set forth in the preceding paragraph shall not apply to:

(1) reasonable fees and compensation paid to and indemnity provided on behalf of officers, directors, employees or consultants of the Company or any Restricted Subsidiary of the Company as determined in good faith by the Company s Board of Directors or senior management;

(2) transactions exclusively between or among the Company and any of its Restricted Subsidiaries or exclusively between or among such Restricted Subsidiaries, *provided* that such transactions are not otherwise prohibited by the Indenture;

(3) sales or other transfers or dispositions of accounts receivable and other Related Assets customarily transferred in an asset securitization transaction involving accounts receivable to a Receivables Entity in a Qualified Receivables Transaction, and acquisitions of Permitted Investments in connection with a Qualified Receivables Transaction;

(4) any agreement as in effect as of the Issue Date or any amendment thereto or any transaction contemplated thereby (including pursuant to any amendment thereto) or in any replacement agreement thereto so long as any such amendment or replacement agreement is not materially more disadvantageous, taken as a whole, to the Holders than the original agreement as in effect on the Issue Date;

(5) Restricted Payments or Permitted Investments permitted by the Indenture;

(6) any transaction with a Person which would constitute an Affiliate Transaction solely because the Company or a Restricted Subsidiary owns an equity interest in or otherwise controls such Person; *provided* that no Affiliate of the Company or any of its Subsidiaries other than the Company or a Restricted Subsidiary shall have a beneficial interest in such Person; and

(7) (a) any transaction with an Affiliate where the only consideration paid by the Company or any Restricted Subsidiary is Qualified Capital Stock of the Company or (b) the issuance or sale of any Qualified Capital Stock of the Company.

***Subsidiary Guarantees***

If the Company or any of its Restricted Subsidiaries organizes, acquires, transfers assets to or otherwise invests in any Domestic Restricted Subsidiary (other than a Domestic Restricted Subsidiary if the book value of such Domestic Restricted Subsidiary s total assets, when taken together with the aggregate book value of the total assets of all other Domestic Restricted Subsidiaries that are not Guarantors, as of such date, does not exceed in the aggregate $20.0 million), then such Domestic Restricted Subsidiary shall:

(1) within 10 Business Days (or, with respect to real property assets and associated fixtures, 30 days) execute, and deliver to the Trustee a supplemental indenture (and such additional Security Documents and/or supplements to the applicable existing Security Documents in order to grant a Lien on the properties and assets of such Domestic

Restricted Subsidiary which would constitute Collateral and take all actions required by the Indenture and the Security Documents to create, perfect, protect and confirm such Lien) in form reasonably satisfactory to the Trustee pursuant to which such Domestic Restricted Subsidiary shall unconditionally guarantee all of the Company s obligations under the Notes and the Indenture on the terms set forth in the Indenture; and

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(2) deliver to the Trustee an opinion of counsel that such supplemental indenture and security documents have been duly authorized, executed and delivered by such Domestic Restricted Subsidiary and constitutes a legal, valid, binding and enforceable obligation of such Domestic Restricted Subsidiary.

Thereafter, such Domestic Restricted Subsidiary shall be a Guarantor for all purposes of the Indenture. In addition, (i) to the extent that the collective book value of the total assets of the Company s non-Guarantor Domestic Restricted Subsidiaries, as of the date of the organization, acquisition, transfer of assets to or investment in a non-Guarantor Domestic Restricted Subsidiary, exceeds $20.0 million, then, within 10 Business Days of such date, the Company shall cause one or more of such non-Guarantor Domestic Restricted Subsidiaries to similarly execute a supplemental indenture and such additional and/or supplemental Security Documents (and deliver the related opinions of counsel) and take such actions to perfect the Liens on the Collateral pursuant to which such Domestic Restricted Subsidiary or Domestic Restricted Subsidiaries shall unconditionally guarantee all of the Company s obligations under the Notes and the Indenture, in each case, such that the collective book value of the total assets of all remaining non-Guarantor Domestic Restricted Subsidiaries does not exceed $20.0 million and (ii) the Company may, at its option, cause any other Subsidiary of the Company to guarantee its obligations under the Notes and the Indenture and enter into a supplemental indenture (and such additional Security Documents and/or supplements to the applicable existing Security Documents in order to grant a Lien on the properties and assets of such Subsidiary which would c