
RITCHIE BROS. HOLDINGS LTD.

4.950% SENIOR NOTES DUE 2029

INDENTURE

DATED AS OF DECEMBER 21, 2021

U.S. BANK NATIONAL ASSOCIATION

TRUSTEE

TSX TRUST COMPANY

Co-TRUSTEE

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EXHIBITS

Exhibit A	FORM OF NOTE
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Exhibit C	FORM OF CERTIFICATE OF EXCHANGE
Exhibit D	FORM OF CERTIFICATE OF ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR
Exhibit E	FORM OF SUPPLEMENTAL INDENTURE

INDENTURE dated as of December 21, 2021 between Ritchie Bros. Holdings Ltd., a Canadian federal corporation, and U.S. Bank National Association, a national banking association, as trustee, and TSX Trust Company, as co-trustee.

The Company (as defined herein) and the Trustee (as defined herein) agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined herein) of the 4.950% Senior Notes due 2029 (the “Notes”):

ARTICLE 1
DEFINITIONS AND INCORPORATION
BY REFERENCE

Section 1.01 *Definitions.*

“*144A Global Note*” means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

“*Acquired Indebtedness*” means Indebtedness of a Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary of Parent or at the time it amalgamates, merges or consolidates with or into Parent or any of its Restricted Subsidiaries or that is assumed in connection with the acquisition of assets from such Person and in each case not incurred by such Person in connection with, or in anticipation or contemplation of, such Person becoming a Restricted Subsidiary of Parent or such acquisition, amalgamation, merger or consolidation.

“*Additional Notes*” means Notes (other than the Initial Notes) issued under this Indenture in accordance with Sections 2.13 and 4.09 hereof, as part of the same series as the Initial Notes.

“*Acquisition*” means the acquisition of the Target Companies pursuant to the Share Purchase Agreement.

“*Acquisition Closing Date*” means the date that the Acquisition is consummated.

“*Affiliate*” means, with respect to any specified Person, any other Person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person. The term “control”, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative of the foregoing.

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

“*Applicable Calculation Date*” means the applicable date of the transaction giving rise to the need to calculate Consolidated EBITDA, Consolidated Fixed Charge Coverage Ratio, Consolidated Debt Ratio and Consolidated Secured Debt Ratio.

“*Applicable Measurement Period*” means the most recently completed four consecutive fiscal quarters of the Company immediately preceding the Applicable Calculation Date for which internal financial statements are available.

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

“*Asset Acquisition*” means (1) an Investment by Parent or any Restricted Subsidiary of Parent in any other Person pursuant to which such Person shall become a Restricted Subsidiary of Parent or any Restricted Subsidiary of Parent, or shall be amalgamated or merged with or into Parent or any Restricted Subsidiary of Parent, or (2) the acquisition by Parent or any Restricted Subsidiary of Parent of the assets of any Person (other than a Restricted Subsidiary of Parent) that constitute all or substantially all of the assets of such Person or comprises any division or line of business of such Person or any other properties or assets of such Person other than in the ordinary course of business.

“*Asset Sale*” means any direct or indirect sale, issuance, conveyance, transfer, lease, assignment or other transfer for value by Parent or any of its Restricted Subsidiaries (including any Sale and Leaseback Transaction) to any Person other than Parent or a Restricted Subsidiary of Parent of: (1) any Capital Stock of any Restricted Subsidiary of Parent (other than directors’ qualifying shares and shares issued to foreign nationals as required under applicable law); or (2) any other property or assets of Parent or any Restricted Subsidiary of Parent other than in the ordinary course of business; *provided, however*, that Asset Sales or other dispositions shall not include:

(a) a transaction or series of related transactions for which Parent or its Restricted Subsidiaries receive aggregate consideration of less than \$25.0 million;

(b) the sale, lease, conveyance, disposition or other transfer of all or substantially all of the assets of Parent or the Company as permitted under Section 5.01 hereof;

(c) the sale, discount or other disposition of inventory;

(d) the sale or discount of accounts receivable in connection with the compromise or collection thereof;

(e) disposals or replacements of obsolete, worn-out or no longer useful equipment or machinery;

(f) the sale or other disposition of cash or Cash Equivalents;

(g) any Restricted Payment that is not prohibited by Section 4.07 or any Restricted Payment that constitutes a Permitted Investment;

(h) the abandonment of Intellectual Property Rights no longer used or useful in the conduct of the business of Parent or any of its Subsidiaries;

(i) licenses, sublicenses, leases or subleases granted to others (including licenses of Intellectual Property Rights), and terminations thereof not interfering in any material respect with the business of Parent and its Subsidiaries;

(j) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

- (k) the surrender or waiver of contractual rights and settlement or waiver of contractual or litigation claims by Parent or any Subsidiary;
- (l) the unwinding of any Interest Swap Obligation or Currency Agreements pursuant to its terms;
- (m) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;
- (n) Dispositions of property or assets subject to a Recovery Event;
- (o) Dispositions made in connection with the consummation of the Acquisition that are necessary or advisable to comply with applicable law or to avoid any impediment to the consummation of the Acquisition under any applicable law;
- (p) Dispositions of real property so long as the aggregate net book value of all real property sold or otherwise disposed of by Parent and its Restricted Subsidiaries pursuant to this clause (p) in any fiscal year of Parent shall not exceed \$75.0 million, and during the term of Indentures, shall not exceed \$200.0 million;
- (q) any disposition of property or assets, or the issuance of securities, by a Restricted Subsidiary to the Company or by the Company or a Restricted Subsidiary to a Restricted Subsidiary;
- (r) the granting of, and dispositions in connection with, Permitted Liens;
- (s) foreclosure, condemnation, expropriation or any similar action with respect to any property or other asset of Parent or any of its Restricted Subsidiaries;
- (t) any disposition of Capital Stock in, or Indebtedness or other securities of, an Unrestricted Subsidiary;
- (u) any surrender, expiration or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims of any kind;
- (v) Permitted Intercompany Activities and related transactions; and
- (w) Specified Property Sales.

In the event that a transaction (or a portion thereof) meets the criteria of a permitted Asset Sale and would also be a permitted Restricted Payment or Permitted Investment, Parent, in its sole discretion, will be entitled to divide and classify and reclassify such transaction (or a portion thereof) as an Asset Sale and/or one or more the types of permitted Restricted Payments or Permitted Investments.

“*Attributable Indebtedness*” means, with respect to any Person on any date, in respect of any finance lease, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

“*Bankruptcy Law*” means the *Companies’ Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada), the *Canada Business Corporations Act*, the *Winding-Up and Restructuring Act* (Canada), Title 11, U.S. Code and any other applicable insolvency, corporate arrangement or restructuring or other similar law of any jurisdiction including any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it.

“*Beneficial Holders*” means any person who holds a beneficial interest in Notes as shown on the books of the Depository or a participant of such Depository.

“*Beneficial Owner*” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

“*Board of Directors*” means, as to any Person, the board of directors of such Person or any duly authorized committee thereof or, with respect to any Person that is not a corporation, the Person or Persons performing corresponding functions.

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

“*Business Day*” means any day other than a Saturday, Sunday or other day on which commercial banks or financial institutions are authorized to close under the laws of, or are in fact closed in, New York, New York, Toronto, Ontario or the place of payment.

“*Calculation Period*” has the meaning set forth in Section 12.15 hereof.

“*Canada Bond Yield*” means, on any date, the bid yield to maturity on such date compounded semi-annually which a non-callable non-amortizing Government of Canada nominal bond would be expected to carry if issued, in Canadian dollars in Canada, at 100% of its principal amount on such date with a term to maturity which most closely approximates the remaining term to December 15, 2024 on such date, as determined by the Company based on a linear interpolation of the yields represented by the arithmetic average of bids observed in the market place at or about 11:00 a.m. (Eastern Time), on the relevant date for each of the two outstanding non-callable non-amortizing Government of Canada nominal bonds which have the terms to maturity which most closely span the remaining term to December 15, 2024 on such date, where such arithmetic average is based in each case on the bids quoted by two independent registered members of the Investment Industry Regulatory Organization of Canada selected by the Company (and acceptable to the Trustee, acting reasonably), calculated in accordance with standard practice in the industry.

“*Canadian Legend*” means the legend set forth in Section 2.06(f)(3) hereof, which is required to be placed on all Notes issued under this Indenture.

“*Canadian Restricted Subsidiary*” means any Restricted Subsidiary that is organized under the Laws of Canada or any province or territory thereof.

“*Canada Yield Price*” means the price for the Notes, as determined by an independent investment dealer selected by the Company and acceptable to the Trustee, acting reasonably, as of the third Business Day prior to the date of redemption, equal to the greater of: (a) 101% of the principal amount of the Notes; and (b) the sum of the present values of (i) the redemption price of such Notes on December 15, 2024 plus (ii) the scheduled payments of interest on the Notes remaining from the redemption date up to and including December 15, 2024 (not including any portion of the scheduled payments of interest accrued as of the relevant redemption date) discounted to the relevant redemption date on a semi-annual basis (assuming a 365-day year) at the discount rate equal to the sum of the Canada Bond Yield for such Notes and the Canada Yield Spread.

“*Canada Yield Spread*” means 0.50% (or 50 basis points).

“*Capital Markets Indebtedness*” means any Indebtedness consisting of bonds, debentures, notes or other similar debt securities issued in (a) a public offering registered under the Securities Act, (b) a private placement to institutional investors that is resold in accordance with Rule 144A or Regulation S under the Securities Act, whether or not it includes registration rights entitling the holders of such debt securities to registration thereof with the SEC or (c) a private placement to institutional accredited investors.

“*Capital Stock*” means:

(1) with respect to any Person that is a corporation, any and all shares, interests, participations or other equivalents (however designated and whether or not voting) of corporate stock, including each class of Common Stock and Preferred Stock of such Person; and

(2) with respect to any Person that is not a corporation, any and all partnership, membership or other equity interests of such Person.

“*Capitalized Lease Obligation*” means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as financing lease obligations under GAAP and, for purposes of this definition, the amount of such obligations at any date shall be the capitalized amount of such obligations at such date, determined in accordance with GAAP.

“*Cash Equivalents*” means:

(1) United States dollars, Canadian dollars, Euros, British Pounds or any national currency of any participating member state of the European Union or such local currencies held by Parent and its Subsidiaries from time to time in the ordinary course of business;

(2) marketable direct obligations issued by, or unconditionally guaranteed by, the United States, the Canadian Government, Canadian crown corporations, the Netherlands, the United Kingdom, Germany, Spain, France or Australia;

(3) marketable direct obligations issued by any agency of the United States or the Canadian Government and backed by the full faith and credit of the United States or Canada, in each case maturing within one year from the date of acquisition thereof;

(4) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either S&P or Moody’s (or, in each case, if such Rating Agency ceases to rate such securities, from any Rating Agency selected by the Company as a replacement Rating Agency);

(5) commercial paper or corporate bonds maturing no more than one year from the date of creation thereof and, at the time of acquisition, having a rating of at least A-2 from S&P or at least P-2 from Moody’s (or, in each case, if such Rating Agency ceases to rate such securities, the equivalent investment grade credit rating from any Rating Agency selected by the Company as a replacement Rating Agency);

(6) certificates of deposit or bankers' acceptances maturing within one year from the date of acquisition thereof issued by any bank organized under the laws of the United States of America or any state thereof or the District of Columbia or any U.S. branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than \$250.0 million;

(7) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (2) above entered into with any bank meeting the qualifications specified in clause (6) above;

(8) securities issued or directly and fully guaranteed or insured by any state, commonwealth or territory of the United States of America or any province of Canada or any agency, subdivision or instrumentality thereof or by any foreign government (and that at the time of acquisition have an investment grade rating from S&P or Moody's (or, in each case, if such Rating Agency ceases to rate such securities, the equivalent investment grade credit rating from any Rating Agency selected by the Company as a replacement Rating Agency)) having maturities of not more than two years after the date of acquisition;

(9) marketable short term money market and similar securities having the highest rating obtainable from S&P or Moody's (or, in each case, if such Rating Agency ceases to rate such securities, any Rating Agency selected by the Company as a replacement Rating Agency) at the time of acquisition and in each case maturing within two years after the date of acquisition;

(10) Investments in money market funds that invest substantially all their assets in securities of the types described in clauses (1) through (9) above; and

(11) Foreign Cash Equivalents.

"Cash Management Agreement" means any agreement to provide treasury or cash management services, including deposit accounts, overnight draft, credit cards, debit cards, p-cards (including purchasing cards and commercial cards), funds transfer, automated clearinghouse, zero balance accounts, returned check concentration, controlled disbursement, lockbox, account reconciliation and reporting and trade finance services and other cash management services.

"CDS" means CDS Clearing and Depository Services Inc.

"CDS & Co." means CDS & Co., the nominee of CDS.

"Change of Control" means the occurrence of one or more of the following events:

(1) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of Parent to any Person or group of related Persons for purposes of Section 13(d) of the Exchange Act (a *"Group"*), together with any Affiliates thereof (whether or not otherwise in compliance with the provisions of this Indenture);

(2) the approval by the holders of Capital Stock of Parent of any plan or proposal for the liquidation or dissolution of Parent (whether or not otherwise in compliance with the provisions of this Indenture); or

(3) any Person or Group shall become the owner, directly or indirectly, beneficially or of record, of shares representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding Capital Stock of Parent.

“*Chinese Facilities*” means the line of credit and other extensions of credit to one or more Wholly-Owned Subsidiaries of Parent that are incorporated under the laws of the People’s Republic of China, in an aggregate principal amount at any time outstanding not to exceed \$10.0 million.

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

“*Common Stock*” of any Person means any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or non-voting) of such Person’s common stock, and includes, without limitation, all series and classes of such common stock.

“*Company*” means Ritchie Bros. Holdings Ltd., a Canadian federal corporation, and any and all successors thereto.

“*Consolidated EBITDA*” means, for any period, for Parent and its Restricted Subsidiaries on a consolidated basis, an amount equal to:

- (a) Consolidated Net Income for such period; *plus*
- (b) the following to the extent deducted in calculating such Consolidated Net Income (other than clauses (iv) and (v)):
 - (i) Consolidated Interest Expense for such period;
 - (ii) federal, state, local and foreign income tax expense for such period;
 - (iii) depreciation and amortization expense for such period;
 - (iv) expected cost savings, operating expense reductions and synergies for such period related to the consummation of the Acquisition projected by Parent in good faith to result from actions with respect to which substantial steps have been taken, will be taken, or are expected to be taken; *provided* that (A) such cost savings, operating expense reductions and synergies are expected to be realized (in the good faith determination of Parent) within 24 months after the closing date of the Acquisition, which are reasonably identifiable and factually supportable and (B) amounts added-back for any period pursuant to this clause (iv) shall not exceed \$20.0 million during the term of this Indenture (it being understood that no addbacks pursuant to this clause (iv) shall be permitted subsequent to 24 months after the closing date of the Acquisition);
 - (v) expected cost savings, operating expense reductions and synergies for such period related to mergers and other business combinations, acquisitions, Dispositions, restructuring, or cost savings initiatives which are reasonably identifiable and factually supportable and other similar initiatives and projected by Parent in good faith to result from actions with respect to which substantial steps have been taken, will be taken, or are expected to be taken; *provided* that (A) such cost savings, operating expense reductions and synergies are expected to be realized (in the good faith determination of Parent) within 24 months after such transaction or initiative is consummated and (B) amounts added-back for any period pursuant to this clause (v) shall not exceed 10% of Consolidated EBITDA for such period (calculated prior to giving effect to this clause (v)) (it being understood that no addbacks pursuant to this clause (v) with respect to any specific merger, business combination, acquisition, Disposition, restructuring or cost savings initiative shall be permitted subsequent to 24 months after the applicable merger, business combination, acquisition, Disposition, restructuring or cost savings initiative);

(vi) non-cash losses, charges and expenses (including non-cash compensation charges but excluding (A) losses, charges and expenses to the extent representing an accrual of or reserve for cash losses, charges or expenses in any future period and (B) write-downs or reserves of account receivables or inventory);

(vii) unusual or non-recurring losses, charges and expenses in an aggregate amount not to exceed \$25.0 million during such period;

(viii) cash restructuring and related charges and business optimization expenses in an aggregate amount not to exceed \$25.0 million during such period;

(ix) unrealized losses due to foreign exchange adjustments (including, without limitation, losses and expenses in connection with currency and exchange rate fluctuations);

(x) costs and expenses in connection with the Senior Secured Credit Facilities, this Indenture, the USD Indenture and the Acquisition (including, without limitation, one-time expenses associated with vested and unvested options);

(xi) expenses or charges related to any offering of equity interests, Permitted Investment, acquisition (other than the Acquisition), Disposition, recapitalization or incurrence of permitted Indebtedness (whether or not consummated), including non-operating or non-recurring professional fees, costs and expenses related thereto in an aggregate amount not to exceed \$25.0 million during such period; and

(xii) losses from discontinued operations and non-ordinary course Dispositions; *minus*

(c) the following to the extent included in calculating such Consolidated Net Income: (i) non-cash income or gains, (ii) unrealized gains due to foreign exchange adjustments (including, without limitation, gains in connection with currency and exchange rate fluctuations) and (iii) income or gains from discontinued operations and non-ordinary course Dispositions.

“*Consolidated Fixed Charge Coverage Ratio*” means, with respect to any Person, the ratio of Consolidated EBITDA of such Person during the Applicable Measurement Period to Consolidated Fixed Charges paid in cash for the Applicable Measurement Period.

In addition to and without limitation of the foregoing, for purposes of this definition, “Consolidated EBITDA” and “Consolidated Fixed Charges” shall be calculated after giving effect on a *pro forma* basis for the period of such calculation to:

(1) the incurrence or repayment of any Indebtedness of such Person or any of its Restricted Subsidiaries (and the application of the proceeds thereof) giving rise to the need to make such calculation and any incurrence or repayment of other Indebtedness (and the application of the proceeds thereof), other than the incurrence or repayment of Indebtedness in the ordinary course of business for working capital purposes pursuant to working capital facilities, occurring during the Applicable Measurement Period or at any time subsequent to the last day of the Applicable Measurement Period and on or prior to the Applicable Calculation Date, as if such incurrence or repayment, as the case may be (and the application of the proceeds thereof), occurred on the first day of the Applicable Measurement Period; and

(2) any asset sales or Asset Acquisitions, including, without limitation, any Asset Acquisition giving rise to the need to make such calculation as a result of such Person or one of its Restricted Subsidiaries (including any Person who becomes a Restricted Subsidiary as a result of the Asset Acquisition) incurring, assuming or otherwise being liable for Acquired Indebtedness and also including any Consolidated EBITDA (including any *pro forma* expense and cost reductions calculated on a basis consistent with Regulation S-X promulgated under the Exchange Act attributable to the assets that are the subject of the Asset Acquisition or asset sale during the Applicable Measurement Period) occurring during the Applicable Measurement Period or at any time subsequent to the last day of the Applicable Measurement Period and on or prior to the Applicable Calculation Date, as if such asset sale or Asset Acquisition (including the incurrence or assumption of any such Acquired Indebtedness) occurred on the first day of the Applicable Measurement Period. If such Person or any of its Restricted Subsidiaries directly or indirectly guarantees Indebtedness of a third Person, the preceding sentence shall give effect to the incurrence of such guaranteed Indebtedness as if such Person or any Restricted Subsidiary of such Person had directly incurred or otherwise assumed such other Indebtedness that was so guaranteed.

Furthermore, in calculating “Consolidated Fixed Charges” for purposes of determining the denominator (but not the numerator) of the Consolidated Fixed Charge Coverage Ratio:

(1) interest on outstanding Indebtedness determined on a fluctuating basis as of the Applicable Calculation Date and which will continue to be so determined thereafter shall be deemed to have accrued at a fixed rate per annum equal to the rate of interest on such Indebtedness in effect on the Applicable Calculation Date; and

(2) notwithstanding clause (1) of this paragraph, interest on Indebtedness determined on a fluctuating basis, to the extent such interest is covered by agreements relating to Interest Swap Obligations, shall be deemed to accrue at the rate per annum resulting after giving effect to the operation of such agreements.

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

(1) Consolidated Interest Expense; *plus*

(2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock of any Restricted Subsidiary; *plus*

(3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Capital Stock.

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

(1) the aggregate of the interest expense of such Person and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, including, without limitation: (a) any amortization of debt discount and amortization or write off of deferred financing costs; (b) the net costs under Interest Swap Obligations; (c) all capitalized interest; and (d) the interest portion of any deferred payment obligation; and

(2) the interest component of Capitalized Lease Obligations paid and/or scheduled to be paid by such Person and its Restricted Subsidiaries during such period as determined on a consolidated basis in accordance with GAAP;

provided, that, notwithstanding anything herein to the contrary, interest in connection with the Notes shall not constitute Consolidated Interest Expense to the extent (and for so long as) the Notes have been funded into escrow to fund the Acquisition and remains in escrow.

“*Consolidated Net Income*” means, for any period, for Parent and its Subsidiaries on a consolidated basis, net income (or loss) for such period; provided that Consolidated Net Income shall exclude:

(a) extraordinary gains and extraordinary losses for such period,

(b) solely for the purpose of determining the amount available for Restricted Payments under Section 4.07(a)(iii)(w), any net income (loss) of any Restricted Subsidiary (other than Guarantors) if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the Company, Parent or a Guarantor by operation of the terms of such Restricted Subsidiary’s charter or any agreement, instrument, judgment, decree, order, statute or governmental rule or regulation applicable to such Restricted Subsidiary or its shareholders (other than restrictions that have been waived or otherwise released), except that Parent’s equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed or that could have been distributed by such Restricted Subsidiary to the Company, Parent or another Restricted Subsidiary as a dividend or other distribution (subject in the case of a dividend to another Restricted Subsidiary, to the limitation contained in this clause); and

(c) any income (or loss) for such period of any Person if such Person is not a Subsidiary, except that Parent’s equity in the net income of any such Person for such period shall be included in Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such period to Parent or a Subsidiary as a dividend or other distribution.

“*Consolidated Debt Ratio*” as of any date of determination means, the ratio of (1) Consolidated Total Indebtedness of Parent and its Restricted Subsidiaries as of the end of the Applicable Measurement Period to (2) Parent’s Consolidated EBITDA for the Applicable Measurement Period, in each case with such *pro forma* adjustments to Consolidated Total Indebtedness and Consolidated EBITDA as are appropriate and consistent with the *pro forma* adjustment provisions set forth in the definition of “Consolidated Fixed Charge Coverage Ratio.”

“*Consolidated Secured Debt Ratio*” as of any date of determination means, the ratio of (1) Consolidated Total Secured Indebtedness of Parent and its Restricted Subsidiaries as of the end of the Applicable Measurement Period to (2) Parent’s Consolidated EBITDA for the Applicable Measurement Period, in each case with such *pro forma* adjustments to Consolidated Total Indebtedness and Consolidated EBITDA as are appropriate and consistent with the *pro forma* adjustment provisions set forth in the definition of “Consolidated Fixed Charge Coverage Ratio.”

“*Consolidated Total Assets*” means the total consolidated assets of Parent and its Restricted Subsidiaries, as shown on the most recent consolidated balance sheet of Parent and its Restricted Subsidiaries, calculated on a *pro forma* basis after giving effect to any subsequent acquisition or Disposition of a Person or business.

“*Consolidated Total Indebtedness*” means, as at any date of determination, an amount equal to the sum of (1) the aggregate amount of all outstanding Indebtedness of Parent and its Restricted Subsidiaries on a consolidated basis consisting of Indebtedness for borrowed money, obligations in respect of purchase money Indebtedness and Capitalized Lease Obligations and debt obligations evidenced by promissory notes and similar instruments; (2) all direct or contingent obligations arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties and similar instruments; (3) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business) solely to the extent such obligation is evidenced by a note or similar instrument and such obligation is included as a liability on the balance sheet of Parent and its Subsidiaries in accordance with GAAP; and (4) all Guarantees with respect to Indebtedness of the types specified in clauses (1) through (3) above of another Person.

“*Consolidated Total Secured Indebtedness*” means, as of any date of determination means, the aggregate amount of all outstanding Consolidated Total Indebtedness of Parent and its Restricted Subsidiaries that is secured by Liens as of the end of the Applicable Measurement Period.

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

“*Corporate Trust Office of the Trustee*” means the address of the Trustee specified in Section 12.02 hereof or such other address as to which the Trustee may give notice to the Company.

“*Credit Facilities*” means one or more debt facilities, including the Senior Secured Credit Facilities, or other financing arrangements (including, without limitation, commercial paper facilities or indentures) providing for revolving credit loans, term loans, receivables financing, bankers acceptances, letters of credit, debt securities or other indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings, replacements or refinancings thereof and any indentures or credit facilities or commercial paper facilities that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof, whether or not by the same or any other agent, investor, lender or group of lenders (whether or not such added or substituted parties are banks or other institutional lenders), in each case, whether or not any such amendment, supplement, modification, extension, renewal, restatement, refunding, replacement or refinancing occurs simultaneously with the termination or repayment of a prior Credit Facility.

“*Currency Agreement*” means any foreign exchange contract, currency swap agreement or other similar agreement or arrangement designed to protect Parent or any Restricted Subsidiary of Parent against fluctuations in currency values.

“*Default*” means an event or condition the occurrence of which is, or with the lapse of time or the giving of notice or both would be, an Event of Default.

“*Definitive Note*” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend, shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto and may bear the Private Placement Legend.

“*Depositary*” means CDS and such other Person as is designated in writing by Parent or the Company and acceptable to the Trustee to act as depository in respect of one or more Notes.

“*Designated Non-Cash Consideration*” means the Fair Market Value of non-cash consideration received by Parent or one of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as “Designated Non-Cash Consideration” pursuant to an Officer’s Certificate, setting forth the basis of such valuation, less the amount of cash or Cash Equivalents received in connection with a subsequent sale of such Designated Non-Cash Consideration.

“*Disqualified Capital Stock*” means that portion of any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder thereof), or upon the happening of any event (other than an event which would constitute a Change of Control), matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the sole option of the holder thereof (except, in each case, upon the occurrence of a Change of Control) on or prior to the final maturity date of the Notes; *provided, however*, only the portion of Capital Stock which is so redeemable or repurchasable prior to such date will be deemed to be Disqualified Capital Stock.

“*Disposition*” or “*Dispose*” means the sale, transfer, license, lease or other disposition of any property by Parent or any Subsidiary, including any Sale and Leaseback Transaction and any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith, but excluding any Recovery Event.

“*Equity Offering*” means any public or private offering of Qualified Capital Stock of Parent (other than offerings registered on Form S-8 or any successor form).

“*Escrow Account*” has the meaning assigned to it in the Escrow Agreement.

“*Escrow Agent*” has the meaning assigned to it in the Escrow Agreement.

“*Escrow Agreement*” means that certain Escrow Agreement, dated as of the date hereof, by and among the Company, the Trustee and the Escrow Agent, as may be amended, amended and restated, supplemented or otherwise modified from time to time.

“*Escrow End Date*” means September 30, 2022.

“*Escrow Release*” means the release of all of the Escrowed Property from the Escrow Account and the release of the Trustee’s Lien thereon and security interest therein pursuant to and in accordance with the terms of the Escrow Agreement.

“*Escrow Release Date*” means the date on which the Escrow Release occurs.

“*Escrowed Property*” has the meaning assigned to it in the Escrow Agreement.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended, or any successor statute or statutes thereto.

“*Existing Notes*” means Parent’s existing 5.375% Senior Notes due 2025.

“*Fair Market Value*” means, with respect to any asset or property, the price which could be negotiated in an arm’s-length, free market transaction, for cash, between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction. Fair Market Value shall be determined by the Board of Directors of Parent or the Company acting reasonably and in good faith and shall be evidenced by a Board Resolution of the Board of Directors of Parent or the Company.

“*FATCA*” means (a) Sections 1471 through 1474 of the Code, as of the Issue Date (including regulations and guidance thereunder), (b) any amended or successor version thereof that is substantively comparable and not materially more onerous to comply with, (c) any agreement (including any intergovernmental agreement) entered into in connection therewith, including pursuant to Section 1471(b)(1) of the Code or (d) any law, regulation, rule or practice implementing an intergovernmental agreement or approach thereto or therewith.

“*Foreign Cash Equivalents*” means certificates of deposit or bankers acceptances of any bank organized under the laws of the United Kingdom, Canada, Singapore, Australia, China or any country that is a member of the European Union, whose short-term commercial paper rating from S&P is at least A-1 or the equivalent thereof or from Moody’s is at least P-1 or the equivalent thereof, in each case with maturities of not more than one year from the date of acquisition.

“*GAAP*” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession of the United States, which were in effect as of the Issue Date.

“*Global Note Legend*” means the legend set forth in Section 2.06(f)(2) hereof, which is required to be placed on all Global Notes issued under this Indenture.

“*Global Notes*” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes deposited with or on behalf of and registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A hereto and that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, issued in accordance with the applicable provisions of this Indenture.

“*Government Securities*” means direct obligations of, or obligations guaranteed by, the United States, Canada or the United Kingdom (including, in each case, any agency or instrumentality thereof) for the payment of which obligations or guarantees the full faith and credit of the United States, Canada or the United Kingdom is pledged and which are not callable or redeemable at the issuer’s option.

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

“*Guarantor*” means: Parent and each of the Company’s Restricted Subsidiaries that in the future executes a supplemental indenture in which such Restricted Subsidiary agrees to be bound by the terms of this Indenture as a Guarantor; *provided* that any Person constituting a Guarantor shall cease to constitute a Guarantor when its respective Note Guarantee is released in accordance with the terms of this Indenture. Any entity that is (a) a CFC, (b) a U.S. Person all or substantially all of the assets of which consist of the equity interests of one or more CFCs or (c) a U.S. Person that is a Subsidiary of a CFC, will not provide a Guarantee. For this purpose (x) a “CFC” means any controlled foreign corporation for U.S. federal income tax purposes that is owned (within the meaning of Section 958(a) of the Code) by either the Company or any Affiliate of the Company that is a U.S. person and a corporation for U.S. federal income tax purposes, and (y) a “U.S. Person” means any United States person (within the meaning of Section 7701(a)(30) of the Code).

“*Holder*” means a Person in whose name a Note is registered.

“*IAI Global Note*” means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee issued in a denomination equal to the outstanding principal amount of the Notes sold to Institutional Accredited Investors.

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

- (1) all Obligations of such Person for borrowed money;
- (2) all Obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (3) all Capitalized Lease Obligations of such Person;
- (4) all Obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations and all Obligations under any title retention agreement (but excluding trade accounts payable and other accrued liabilities arising in the ordinary course of business and any earn-out obligation until such obligation becomes a liability on the balance sheet of Parent and its Restricted Subsidiaries in accordance with GAAP and if not paid when due and payable);
- (5) all Obligations for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction which is issued in respect of Indebtedness referred to in clauses (1) through (4) above and clause (8) below;
- (6) guarantees and other contingent obligations in respect of Indebtedness referred to in clauses (1) through (5) above and clause (8) below;
- (7) all Obligations of any other Person of the type referred to in clauses (1) through (6) above that are secured by any Lien on any property or asset of such Person, the amount of such Obligation being deemed to be the lesser of the fair market value of such property or asset or the amount of the Obligation so secured;
- (8) all net Obligations under Currency Agreements and interest swap agreements of such Person; and
- (9) all Disqualified Capital Stock issued by such Person with the amount of Indebtedness represented by such Disqualified Capital Stock being equal to the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price, but excluding accrued dividends, if any.

For purposes hereof, the “maximum fixed repurchase price” of any Disqualified Capital Stock which does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Capital Stock as if such Disqualified Capital Stock were purchased on any date on which Indebtedness shall be required to be determined pursuant to this Indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Capital Stock, such fair market value shall be determined reasonably and in good faith by Parent or the Company. In addition, the term “Indebtedness” shall not include (i) deferred or prepaid revenue, (ii) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the seller, (iii) accrued expenses and (iv) obligations in respect of operating leases. For all purposes hereof, the Indebtedness of the Company and its Wholly-Owned Subsidiaries shall exclude intercompany liabilities arising from their cash management and accounting operations and intercompany loans, advances or Indebtedness among the Company and its Wholly-Owned Subsidiaries having a term not exceeding 364 days (inclusive of any rollover or extensions of terms) and made in the ordinary course of business.

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

“*Independent Financial Advisor*” means a firm: (1) that does not, and whose directors, officers and employees or Affiliates do not, have a direct or indirect financial interest in Parent or the Company and (2) that, in the judgment of the Board of Directors of Parent or the Company, is otherwise independent and qualified to perform the task for which it is to be engaged.

“*Indian Facilities*” means the line of credit and other extensions of credit to one or more Wholly Owned Subsidiaries of Parent that are incorporated under the laws of India, in an aggregate principal amount at any time outstanding not to exceed \$5.0 million.

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

“*Initial Notes*” means the C\$425.0 million aggregate principal amount of Notes issued by the Company on the date hereof under this Indenture.

“*Initial Purchasers*” means the initial purchasers party to the Purchase Agreement.

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

“*Interest Swap Obligations*” means the obligations of any Person pursuant to any arrangement with any other Person, whereby, directly or indirectly, such Person is entitled to receive from time to time periodic payments calculated by applying either a floating or a fixed rate of interest on a stated notional amount in exchange for periodic payments made by such other Person calculated by applying a fixed or a floating rate of interest on the same notional amount and shall include, without limitation, interest rate swaps, caps, floors, collars and similar agreements.

“*International Restricted Subsidiary*” means any Restricted Subsidiary that is not a U.S. Restricted Subsidiary.

“*Investment*” means, with respect to any Person, any direct or indirect loan or other extension of credit (including, without limitation, a guarantee) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or any purchase or acquisition by such Person of any Capital Stock, bonds, notes, debentures or other securities or evidences of Indebtedness issued by, any other Person. “Investment” shall exclude extensions of trade credit by Parent and its Restricted Subsidiaries on commercially reasonable terms. If Parent or any Restricted Subsidiary of Parent sells or otherwise disposes of any Common Stock of any direct or indirect Wholly Owned Restricted Subsidiary of Parent such that, after giving effect to any such sale or disposition, Parent no longer owns, directly or indirectly, 100% of the outstanding Common Stock of such Restricted Subsidiary, Parent shall be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of the Common Stock of such Restricted Subsidiary not sold or disposed of.

For purposes of Section 4.07 and Section 4.19:

(1) “Investment” will include the portion (proportionate to Parent’s equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the fair market value of the net assets of such Restricted Subsidiary of Parent at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, Parent will be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (a) Parent’s “Investment” in such Subsidiary at the time of such redesignation less (b) the portion (proportionate to Parent’s equity interest in such Subsidiary) of the fair market value of the net assets (as conclusively determined by the Board of Directors of Parent or the Company in good faith) of such Subsidiary at the time that such Subsidiary is so redesignated a Restricted Subsidiary; and

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its fair market value at the time of such transfer, in each case as determined in good faith by the Board of Directors of Parent or the Company.

“*Intellectual Property Rights*” mean, collectively the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights.

“*Investment Grade Rating*” means a rating of Baa3 or better by Moody’s and BBB- or better by S&P (or its equivalent under any successor rating categories of S&P) (or, in each case, if such Rating Agency ceases to rate the Notes for reasons outside of the control of the Company, the equivalent investment grade credit rating from any Rating Agency selected by the Company as a replacement Rating Agency).

“*Issue Date*” means December 21, 2021.

“*Laws*” means, collectively, all international, foreign, federal, state, provincial, territorial and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any governmental authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any governmental authority, in each case whether or not having the force of Law.

“*Lien*” means any lien, mortgage, deed of trust, pledge, security interest, charge or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof and any agreement to give any security interest).

“*Limited Condition Transaction*” means (A) any acquisition or other Investment, including by way of merger, amalgamation or consolidation, by Parent or one or more of its Restricted Subsidiaries, with respect to which Parent or such Restricted Subsidiaries have entered into an agreement or are otherwise contractually committed to consummate and the consummation of which is not expressly conditioned upon the availability of, or on obtaining, financing from a third party non-Affiliate, (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or Preferred Stock, (3) any Restricted Payment requiring irrevocable notice in advance thereof and (4) any Asset Sale or a disposition excluded from the definition of “Asset Sale”.

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

“*Net Cash Proceeds*” means, with respect to any Asset Sale, the proceeds in the form of cash or Cash Equivalents including payments in respect of deferred payment obligations when received in the form of cash or Cash Equivalents (other than the portion of any such deferred payment constituting interest) received by Parent or any of its Restricted Subsidiaries from such Asset Sale net of:

(1) out-of-pocket expenses and fees relating to such Asset Sale (including, without limitation, legal, accounting and investment banking fees, brokerage and sales commissions, and survey, title and recording expenses, transfer taxes and expenses incurred for preparing such asset for sale, payments made in order to obtain a necessary consent or required by applicable law, any relocation expenses incurred as a result of the Asset Sale and other fees and expenses, including title and recordation expenses);

(2) taxes paid or payable, or estimated in good faith to be payable as a result of the Asset Sale, after taking into account any reduction in consolidated tax liability due to available tax credits or deductions and any tax sharing arrangements;

(3) repayment of Indebtedness that is secured by the property or assets that are the subject of such Asset Sale; and

(4) appropriate amounts to be provided by Parent or any Restricted Subsidiary, as the case may be, as a reserve, in accordance with GAAP, against any liabilities associated with such Asset Sale and retained by Parent or any Restricted Subsidiary, as the case may be, after such Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale.

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

“*Note Guarantee*” means the Guarantee pursuant to this Indenture by each Guarantor of the Company’s obligations under this Indenture and the Notes.

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

“*Obligations*” means all obligations for principal, premium, interest, penalties, fees, indemnification, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“*Offering Circular*” means the offering circular, dated December 7, 2021, pursuant to which the Initial Notes were offered to potential purchasers.

“*Officer*” means, with respect to any Person, any of the following: the Chairman of the Board of Directors, Vice Chairman of the Board of Directors, Chief Executive Officer, President, Chief Operating Officer, Chief Financial Officer, General Counsel, Vice President, Treasurer, Secretary, Assistant Secretary or Assistant Treasurer (including interim officers).

“*Officer’s Certificate*” means, with respect to any Person, a certificate signed on behalf of such Person by an Officer of such Person, which meets the requirements set forth in this Indenture. Unless the context otherwise requires, “*Officer’s Certificate*” refers to an Officer’s Certificate of the Company.

“*Opinion of Counsel*” means a written opinion from legal counsel, who may be an employee of or counsel to Parent or the Company, or other counsel who is reasonably acceptable to the Trustee.

“*Parent*” means Ritchie Bros. Auctioneers Incorporated, a Canadian federal corporation and the parent of the Company.

“*Pari Passu Indebtedness*” means any Indebtedness of Parent, the Company or any Guarantor that is equal in right of payment with the Notes or the Note Guarantee of such Guarantor, as applicable.

“*Participant*” means, with respect to the Depository, a Person who has an account with the Depository.

“*Permitted Intercompany Activities*” means any transactions between or among Parent and its Restricted Subsidiaries that are entered into in the ordinary course of business of Parent and its Restricted Subsidiaries and, in the good faith judgment of Parent are necessary or advisable in connection with the ownership or operation of the business of Parent and its Restricted Subsidiaries, including, but not limited to, (i) payroll, cash management, purchasing, tax, accounting, insurance and hedging arrangements; and (ii) management, technology and licensing arrangements.

“*Permitted Investments*” means:

- (1) Investments by Parent or any Restricted Subsidiary of Parent in any Person that is or will become after such Investment a Restricted Subsidiary of Parent or that will merge, amalgamate or consolidate into Parent or a Restricted Subsidiary of Parent;
- (2) Investments in Parent by any Restricted Subsidiary of Parent;
- (3) Investments in cash and Cash Equivalents;
- (4) loans and advances to employees and officers of Parent and its Subsidiaries in the ordinary course of business for reasonable and customary business-related purposes not in excess of \$20.0 million at any one time outstanding;
- (5) Currency Agreements and Interest Swap Obligations entered into in the ordinary course of Parent’s or its Restricted Subsidiaries’ businesses and otherwise in compliance with this Indenture;
- (6) additional Investments in an aggregate principal amount at any time outstanding not to exceed the greater of (A) \$200.0 million and (B) 30% of Consolidated EBITDA of the Applicable Measurement Period;
- (7) Investments received (x) pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditors, suppliers or customers or in good faith settlement of delinquent obligations of such trade creditors, suppliers or customers; (y) as a result of the foreclosure by Parent or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title, or (z) as a result of litigation, or other disputes with Persons who are not Affiliates of Parent;
- (8) Investments made by Parent or its Restricted Subsidiaries as a result of consideration received in connection with an Asset Sale made in compliance with Section 4.10;
- (9) Investments represented by guarantees that are otherwise permitted under this Indenture;
- (10) Investments the payment for which is Qualified Capital Stock of Parent;
- (11) Investments by Parent consisting of obligations of one or more officers, directors or other employees of Parent or any of its Subsidiaries in connection with such officers’, directors’ or employees’ acquisition of shares of capital stock of the Company so long as no cash is paid by the Company or any of its Subsidiaries to such officers, directors or employees in connection with the acquisition of any such obligations;

(12) any Investment (x) existing on the Issue Date or made pursuant to binding commitments in effect on the Issue Date, (y) solely with respect to the Target Companies and their subsidiaries, existing on the Escrow Release Date, so long as such Investment was not made in contemplation of the Acquisition or (z) consisting of any replacement, refinancing, extension, modification or renewal of any Investment existing on the Issue Date (or, with respect to the Target Companies and their subsidiaries, the Escrow Release Date); *provided* that the amount of any such Investment may only be increased (i) as required by the terms of such Investment as in existence on the Issue Date (or, with respect to the Target Companies and their subsidiaries, the Escrow Release Date) or (ii) as otherwise permitted under this Indenture;

(13) stock, obligations or securities received in satisfaction of judgments;

(14) advances, loans, rebates and extensions of credit (including the creation of receivables) to suppliers, customers and vendors, and performance guarantees, in each case in the ordinary course of business;

(15) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(16) securities issued by the World Bank or Federal Bank for Reconstruction and Development;

(17) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers consistent with past practices;

(18) (i) intercompany advances among Parent and its Subsidiaries arising from their cash management and accounting operations and (ii) intercompany loans, advances, or Indebtedness among Parent and its Subsidiaries having a term not exceeding 364 days (inclusive of any rollover or extensions of terms);

(19) advances of payroll payments to employees in the ordinary course of business;

(20) Investments in prepaid expenses, negotiable instruments held for collection and lease and utility and worker's compensation deposits provided to third parties in the ordinary course of business;

(21) (i) Investments made in accordance with Parent's investment policy as in effect from time to time, and (ii) Investments funded with net proceeds of any issuance of Capital Stock by Parent;

(22) Investments in connection with or related to the Transactions;

(23) promissory notes and other noncash consideration received in connection with any Disposition permitted by this Indenture;

(24) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers consistent with past practices;

(25) Investments made in connection with Permitted Intercompany Activities and related transactions; and

(26) additional Investments so long as (i) immediately after giving effect to such Investment, no Event of Default exists, and (ii) immediately after giving *pro forma* effect to any such Investment, the Consolidated Debt Ratio shall be less than or equal to 3.00 to 1.00.

“*Permitted Liens*” means the following types of Liens:

- (1) Liens for taxes, assessments or governmental charges or claims either (a) not delinquent for a period of more than 30 days or (b) are being contested in good faith by appropriate proceedings and as to which Parent or its Restricted Subsidiaries shall have set aside on its books such reserves as may be required pursuant to GAAP;
- (2) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, suppliers, materialmen and repairmen, construction Liens and other Liens imposed by law (including Liens imposed under Laws governing the administration of Canadian pension plans) or pursuant to customary reservations or retentions of title incurred in the ordinary course of business for sums not yet delinquent for a period of more than 30 days or being contested in good faith, if such reserve or other appropriate provision, if any, as shall be required by GAAP has been made in respect thereof;
- (3) Liens incurred or deposits made in the ordinary course of business in connection with workers’ compensation, unemployment insurance and other types of social security, including any Lien securing letters of credit issued in the ordinary course of business in connection therewith, and pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of insurance carriers or to secure the performance of tenders, trade contracts, statutory obligations, surety, stay, customs and appeal bonds, bids, leases, government contracts, performance and return-of-money bonds and other similar obligations (including those to secure health safety and environmental obligations and exclusive of obligations for the payment of borrowed money);
- (4) judgment Liens securing the payment of money (or appeal or other surety bonds relating to such judgments) not giving rise to an Event of Default;
- (5) easements, rights-of-way, zoning restrictions and other similar charges or encumbrances in respect of real property not interfering in any material respect with the ordinary conduct of the business of the applicable Person;
- (6) Liens upon specific items of inventory or other goods and proceeds of any Person securing such Person’s obligations in respect of bankers’ acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (7) Liens securing reimbursement obligations with respect to commercial letters of credit which encumber documents and other property relating to such letters of credit and products and proceeds thereof;
- (8) Liens encumbering deposits made to secure obligations arising from statutory, regulatory, contractual, or warranty requirements of Parent or any of its Restricted Subsidiaries, including rights of offset and set-off;
- (9) Liens securing Capitalized Lease Obligations and Purchase Money Indebtedness permitted pursuant to Section 4.09(b)(13) hereof; *provided, however*, that in the case of Purchase Money Indebtedness (a) the Indebtedness shall not be secured by any property or assets of Parent or any Restricted Subsidiary of Parent other than the property and assets so acquired or constructed and the proceeds thereof and (b) the Lien securing such Indebtedness shall be created within 270 days of such acquisition or construction or, in the case of a refinancing of any Purchase Money Indebtedness, within 270 days of such refinancing;

- (10) Liens securing Interest Swap Obligations which Interest Swap Obligations relate to Indebtedness that is otherwise permitted under this Indenture;
- (11) Liens securing Indebtedness under Currency Agreements;
- (12) Liens securing Acquired Indebtedness incurred in accordance with Section 4.09 hereof; *provided that*:
- (a) such Liens secured such Acquired Indebtedness at the time of and prior to the incurrence of such Acquired Indebtedness by Parent or a Restricted Subsidiary of Parent and were not granted in connection with, or in anticipation of, the incurrence of such Acquired Indebtedness by Parent or a Restricted Subsidiary of Parent; and
- (b) such Liens do not extend to or cover any property or assets of Parent or of any of its Restricted Subsidiaries other than the property or assets that secured the Acquired Indebtedness prior to the time such Indebtedness became Acquired Indebtedness of Parent or a Restricted Subsidiary of Parent and are no more favorable to the lienholders than those securing the Acquired Indebtedness prior to the incurrence of such Acquired Indebtedness by Parent or a Restricted Subsidiary of Parent;
- (13) Liens on assets of a Restricted Subsidiary of Parent that is not a Guarantor to secure Indebtedness of such Restricted Subsidiary that is otherwise permitted under this Indenture;
- (14) leases, subleases, licenses and sublicenses granted to others that do not materially interfere with the ordinary course of business of Parent and its Restricted Subsidiaries;
- (15) banker's Liens, rights of setoff and similar Liens with respect to cash and Cash Equivalents on deposit in one or more bank accounts in the ordinary course of business;
- (16) any interest of title of a lessor under, and Liens arising from filing Uniform Commercial Code financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to leases;
- (17) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties in connection with the importation of goods;
- (18) rights of customers with respect to inventory which arise from deposits and progress payments made in the ordinary course of business;
- (19) Liens on assets of International Restricted Subsidiaries (other than Canadian Restricted Subsidiaries) securing Indebtedness permitted pursuant to Section 4.09(b)(14) hereof;
- (20) additional Liens in an aggregate amount at the time of incurrence not to exceed the greater of (A) \$150.0 million and (B) 20% of Consolidated EBITDA for the Applicable Measurement Period;
- (21) at all times prior to the Escrow Release Date, Liens to secure Obligations under the escrow arrangements in respect of the Notes;

(22) Liens (a) existing as of the Issue Date or (b) solely with respect to the Target Companies and their subsidiaries, existing as of the Escrow Release Date (so long as such Lien was not incurred in contemplation of the Acquisition), to the extent and in the manner such Liens are in effect on the Issue Date or the Escrow Release Date, as applicable;

(23) Liens securing the Notes and the Note Guarantees;

(24) Liens of Parent or the Company or a Wholly Owned Restricted Subsidiary of Parent or the Company on assets of any Restricted Subsidiary of Parent and Liens on assets of Parent or the Company in favor of a Wholly Owned Restricted Subsidiary that is a Guarantor;

(25) Liens deemed to exist in connection with Investments in repurchase agreements;

(26) Liens of a collection bank arising under the Uniform Commercial Code, or other applicable law, on items in the course of collection;

(27) reservations, limitations provisos and conditions expressed in any original grants from any governmental authority or other grants of real or immovable property, or interests therein, which do not materially affect the use of the affected land or detract from the value thereof;

(28) the rights reserved to or vested in governmental authorities by statutory provisions or by the terms of leases, licenses, franchises, grants or permits, which affect any land, to terminate the leases, licenses, franchises, grants or permits or to require annual or other periodic payments as a condition of the continuance thereof;

(29) Liens in favor of public utilities or to any municipalities or governmental authorities or other public authorities when required by such utilities, municipalities or governmental authorities or such other public authorities in connection with the supply of services or utilities to Parent or any of its Subsidiaries;

(30) Liens (A) on cash advances or escrow deposits in favor of the seller of any property to be acquired in an Investment permitted under this Indenture to be applied against the purchase price for such Investment or otherwise in connection with any escrow arrangements with respect to any such Investment or any disposition permitted under this Indenture (including any letter of intent or purchase agreement with respect to such Investment or disposition) or (B) consisting of an agreement to dispose of any property in a disposition permitted under this Indenture, in each case, solely to the extent such Investment or disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(31) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(32) in the case of Indebtedness permitted under this Indenture issued into escrow, Liens on the proceeds of such Indebtedness and any cash or Cash Equivalents consisting of prefunded accrued interest on, or additional funds or premium in respect of, such Indebtedness, and any investments with respect to such proceeds, in each case for so long as such funds remain in escrow;

(33) Liens securing Refinancing Indebtedness which is incurred to Refinance any Indebtedness that has been secured by a Lien permitted under this Indenture and that has been incurred without violation of this Indenture; *provided, however*, that such Liens: (i) are no less favorable to the Holders and are not more favorable to the lienholders, in each case in any material respect, with respect to such Liens than the Liens in respect of the Indebtedness being Refinanced; and (ii) do not extend to or cover any categories of property or assets of the Company or any of its Restricted Subsidiaries not securing the Indebtedness so Refinanced.

- (34) Liens securing existing or future borrowings under Credit Facilities incurred pursuant to Section 4.09(b)(2) hereof;
- (35) Liens securing Indebtedness incurred pursuant to Section 4.09(b)(17) hereof;
- (36) Liens securing Indebtedness incurred pursuant to Section 4.09(b)(19) hereof;
- (37) Liens in favor of a consignor encumbering assets delivered to Parent or a Restricted Subsidiary on consignment in the ordinary course of business;
- (38) deposits to secure the performance of bids, trade contracts, government contracts and leases (other than Indebtedness), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health safety and environmental obligations) incurred in the ordinary course of business; and
- (39) Liens on the Capital Stock of Unrestricted Subsidiaries.

“*Person*” means an individual, partnership, corporation, limited liability company, unincorporated organization, trust or joint venture, or a governmental agency or political subdivision thereof.

“*Preferred Stock*” of any Person means any Capital Stock of such Person that has preferential rights to any other Capital Stock of such Person with respect to dividends or redemptions or upon liquidation.

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

“*Purchase Agreement*” means the Purchase Agreement dated December 7, 2021 by and among the Company, the USD Issuer, Goldman Sachs & Co. LLC and RBC Dominion Securities Inc., as representatives of the several initial purchasers named therein, and the other initial purchasers party thereto.

“*Purchase Money Indebtedness*” means Indebtedness of Parent and its Restricted Subsidiaries incurred for the purpose of financing all or any part of the acquisition, or the cost of installation, construction, repair, replacement or improvement, of fixed or capital assets, property or equipment.

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

“*Qualified Capital Stock*” means any Capital Stock that is not Disqualified Capital Stock.

“*Rating Agency*” means (1) each of Moody’s and S&P and (2) if Moody’s or S&P ceases to rate the Notes for reasons outside of the control of the Company, a “nationally recognized statistical rating organization” within the meaning of Section 3(a)(62) of the Exchange Act selected by Parent or the Company as a replacement agency for Moody’s or S&P, as the case may be.

“*Recovery Event*” means any loss of, damage to or destruction of, or any condemnation or other taking for public use of, any property of the Company or any Subsidiary.

“*Refinance*” means, in respect of any security or Indebtedness, to refinance, extend, renew, refund, repay, prepay, redeem, defease or retire, or to issue a security or Indebtedness in exchange or replacement for, such security or Indebtedness, in whole or in part. “Refinanced” and “Refinancing” shall have correlative meanings; provided that the principal amount of such Refinancing Indebtedness does not exceed (a) the principal amount of such Indebtedness being refinanced plus (b) the aggregate amount of fees, underwriting discounts, accrued and unpaid interest, premiums (including, without limitation, tender premiums) and other costs and expenses (including, without limitation, original issue discount, upfront fees or similar fees) incurred in connection with such refinancing.

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

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

“*Regulation S Global Note*” means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 903 of Regulation S.

“*Responsible Officer*,” when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee having direct responsibility for the administration of this Indenture and the Notes (or any successor group of the Trustee) and also means, with respect to a particular corporate trust matter, any other officer of the Trustee to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

“*Restricted Definitive Note*” means a Definitive Note bearing, or that is required to bear, the Private Placement Legend.

“*Restricted Global Note*” means a Global Note bearing, or that is required to bear, the Private Placement Legend.

“*Restricted Period*” means the 40-day distribution compliance period as defined in Regulation S.

“*Restricted Subsidiary*” of any Person means any Subsidiary of such Person which at the time of determination is not an Unrestricted Subsidiary. Unless otherwise expressly noted herein, the term “Restricted Subsidiary” of Parent includes the Company and the USD Issuer.

“*Rule 144*” means Rule 144 promulgated under the Securities Act.

“*Rule 144A*” means Rule 144A promulgated under the Securities Act.

“*Rule 903*” means Rule 903 promulgated under the Securities Act.

“*Rule 904*” means Rule 904 promulgated under the Securities Act.

“*Sale and Leaseback Transaction*” means any direct or indirect arrangement with any Person or to which any such Person is a party, providing for the leasing to Parent or a Restricted Subsidiary of any property, whether owned by Parent or any Restricted Subsidiary at the Issue Date or later acquired, which has been or is to be sold or transferred by Parent or such Restricted Subsidiary to such Person or to any other Person from whom funds have been or are to be advanced by such Person on the security of such property.

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

“SEC” means the U.S. Securities and Exchange Commission.

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

“Secured Foreign Credit Facilities” means (a) the Chinese Facilities, (b) the Indian Facilities, (c) the Singapore Facilities and (d) any other lines of credit, credit agreements or similar facilities or extensions of credit made to one or more International Restricted Subsidiaries (other than Subsidiaries organized under the Laws where Parent, the Company and any then-existing Guarantor is organized) in an aggregate principal at any time outstanding not to exceed the greater of \$100.0 million and 20% of Consolidated EBITDA for the Applicable Measurement Period.

“Senior Secured Credit Facilities” means the Credit Agreement, dated as of October 27, 2016, by and among Parent, the subsidiary borrowers party thereto, the guarantors party thereto, Bank of America, N.A., as administrative agent, U.S. swing line lender and L/C issuer, Royal Bank of Canada, as Canadian swing line lender and L/C issuer, and the other lenders party thereto, together with the related documents thereto (including, without limitation, any guarantee agreements and security documents), in each case, in each case as amended to the date of this Offering Circular and as such agreements may be amended (including any amendment and restatement thereof), supplemented or otherwise modified from time to time, including any agreement extending the maturity of, refinancing, replacing or otherwise restructuring (including increasing the amount of available borrowings thereunder or adding Restricted Subsidiaries of Parent as additional borrowers or guarantors thereunder) all or any portion of the Indebtedness under such agreement or any successor or replacement agreement and whether by the same or any other agent, lender or group of lenders (whether or not such added or substituted parties are banks or other institutional lenders).

“Share Purchase Agreement” means the Share Purchase Agreement by and among the persons listed in Schedule 1 thereto, Euro Auctions FZE, Ritchie Bros. UK Holdings Ltd. and Parent (together with all exhibits and schedules thereto, as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the Acquisition Closing Date).

“Significant Subsidiary,” with respect to any Person, means any Restricted Subsidiary of such Person that satisfies the criteria for a “significant subsidiary” set forth in Rule 1.02(w) of Regulation S-X under the Securities Act.

“Singapore Facilities” means the line of credit and other extensions of credit to one or more Wholly-Owned Subsidiaries of the Company that are incorporated under the laws of Singapore, in an aggregate principal amount at any time outstanding not to exceed \$10.0 million.

“Specified Property Sales” means the sale of (a) Parent’s Bolton, Ontario auction site and (b) certain other real properties with an aggregate purchase price of \$150.0 million.

“Stated Maturity” means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the first date it was incurred in compliance with the terms of this Indenture, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

“Subordinated Indebtedness” means Indebtedness of Parent, the Company or any Guarantor that is contractually subordinated in right of payment to the Notes or the Note Guarantee of such Guarantor, as the case may be.

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

(1) any corporation of which the outstanding Capital Stock having at least a majority of the votes entitled to be cast in the election of directors under ordinary circumstances shall at the time be owned, directly or through another Subsidiary, by such Person; or

(2) any other Person of which at least a majority of the voting interest under ordinary circumstances is at the time, directly or through another Subsidiary, owned by such Person.

“*Target Companies*” means Euro Auctions Limited, William Keys & Sons Holdings Limited, Equipment & Plant Services Ltd and Equipment Sales Ltd, each being a private limited company incorporated in Northern Ireland.

“*Tax Act*” means the *Income Tax Act* (Canada).

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

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

“*Transactions*” means, collectively, (i) the Acquisition, (ii) the offering of the Initial Notes and the USD Notes, (iii) entering into, and borrowings under, the Senior Secured Credit Facilities and (iv) all other transactions related to or incidental to, or in connection with, any of the foregoing (including, without limitation, the payment of fees and expenses in connection with each of the foregoing).

“*Trustee*” means U.S. Bank National Association, and TSX Trust Company, as co-trustee, until a successor replaces either of them in accordance with the applicable provisions of this Indenture and thereafter means the successor(s) serving hereunder.

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

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

“*Unrestricted Subsidiary*” of any Person means:

(1) any Subsidiary of such Person that at the time of determination shall be or continue to be designated an Unrestricted Subsidiary by the Board of Directors of such Person in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of Parent or the Company may designate any Subsidiary (including any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary owns any Capital Stock of, or owns or holds any Lien on any property of, Parent, the Company or any other Subsidiary of Parent or the Company that is not a Subsidiary of the Subsidiary to be so designated; *provided that*:

(1) the Company certifies to the Trustee that such designation complies with Section 4.07; and

(2) each Subsidiary to be so designated and each of its Subsidiaries has not at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of Parent or any of its Restricted Subsidiaries.

The Board of Directors may designate any Unrestricted Subsidiary to be a Restricted Subsidiary only if:

(1) immediately after giving effect to such designation, the Company is able to incur at least \$1.00 of additional Indebtedness pursuant to Section 4.09(a); and

(2) immediately before and immediately after giving effect to such designation, no Default or Event of Default shall have occurred and be continuing.

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

"U.S. Person" means a U.S. Person as defined in Rule 902(k) promulgated under the Securities Act.

"U.S. Restricted Subsidiary" means any Restricted Subsidiary that is organized under the Laws of any state of the United States or the District of Columbia.

"USD Indenture" means that certain indenture, dated as of the date hereof, by and between the USD Issuer and U.S. Bank National Association, as trustee.

"USD Issuer" means Ritchie Bros. Holdings Inc., a Washington corporation.

"USD Notes" means the 4.750% Notes due 2031 issued by the USD Issuer pursuant to the USD Indenture.

"Wholly Owned Restricted Subsidiary" of any Person means any Wholly Owned Subsidiary of such Person which at the time of determination is a Restricted Subsidiary of such Person.

"Wholly Owned Subsidiary" of any Person means any Subsidiary of such Person of which all the outstanding voting securities (other than in the case of a Restricted Subsidiary that is incorporated in a jurisdiction other than a State in the United States or the District of Columbia, directors' qualifying shares or an immaterial amount of shares required to be owned by other Persons pursuant to applicable law) are owned by such Person or any Wholly Owned Subsidiary of such Person.

Section 1.02 *Other Definitions.*

Term	Defined in Section
<i>"Acceptable Commitment"</i>	4.10
<i>"Additional Amounts"</i>	4.16
<i>"Affiliate Transaction"</i>	4.11
<i>"Applicable Premium Deficit"</i>	11.01
<i>"Authentication Order"</i>	2.02
<i>"basket"</i>	4.17
<i>"Change of Control Offer"</i>	4.15
<i>"Change of Control Payment Date"</i>	4.15
<i>"Covenant Defeasance"</i>	8.03
<i>"Elected Amount"</i>	4.09
<i>"Event of Default"</i>	6.01
<i>"Foreign Disposition"</i>	4.10
<i>"Increased Amount"</i>	4.12
<i>"incur"</i>	4.09
<i>"Initial Lien"</i>	4.12
<i>"Legal Defeasance"</i>	8.02
<i>"Look-back Date"</i>	4.07
<i>"Net Proceeds Offer"</i>	4.10
<i>"Net Proceeds Offer Payment Date"</i>	4.10
<i>"Paying Agent"</i>	2.03
<i>"Payor"</i>	4.16
<i>"Permitted Indebtedness"</i>	4.09
<i>"Reference Date"</i>	4.07
<i>"Registrar"</i>	2.03
<i>"Relevant Taxing Jurisdiction"</i>	4.16
<i>"Replacement Assets"</i>	4.10
<i>"Restricted Payment"</i>	4.07
<i>"Reversion Date"</i>	4.20
<i>"Second Commitment"</i>	4.10
<i>"Special Mandatory Redemption"</i>	3.09
<i>"Special Mandatory Redemption Date"</i>	3.09
<i>"Special Mandatory Redemption Event"</i>	3.09
<i>"Surviving Entity"</i>	5.01
<i>"Suspension Period"</i>	4.20
<i>"USA PATRIOT Act"</i>	12.14

Section 1.03 *Rules of Construction.*

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) "or" is not exclusive;
- (4) the words "include," "including" and other words of similar import mean "include, without limitation" or "including, without limitation," regardless of whether any reference to "without limitation" or words of similar import is made; and the included items do not limit the scope of the more general terms; and the listed included items are covered whether or not they are within the scope of the more general terms;

- (5) words in the singular include the plural, and in the plural include the singular;
- (6) “will” shall be interpreted to express a command;
- (7) provisions apply to successive events and transactions; and
- (8) references to sections of or rules under the Securities Act will be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;
- (9) all references to Sections or Articles refer to Sections or Articles of this Indenture;
- (10) use of masculine, feminine or neuter pronouns should not be deemed a limitation, and the use of any such pronouns should be construed to include, where appropriate, the other pronouns; and
- (11) “\$” refers to U.S. dollars.

ARTICLE 2
THE NOTES

Section 2.01 *Form and Dating.*

(a) *General.* The Notes and the Trustee’s certificate of authentication will be substantially in the form of Exhibit A hereto and shall include the Private Placement Legend unless it is removed as contemplated by Section 2.06 hereof. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note will be dated the date of its authentication. The Notes shall be in denominations of C\$2,000 and integral multiples of C\$1,000 in excess thereof.

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

(b) *Global Notes.* Notes issued in global form will be substantially in the form of Exhibit A hereto (including the Global Note Legend thereon and the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Notes issued in definitive form will be substantially in the form of Exhibit A hereto (but without the Global Note Legend thereon and without the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Each Global Note will represent such of the outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Trustee in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) *CDS Applicable Procedures.* The Applicable Procedures will be applicable to transfers of beneficial interests in any Regulation S Global Note that are held by Participants through the Depositary.

(d) *Additional Notes.* The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is unlimited, subject to compliance with Sections 2.13 and 4.09 hereof.

Section 2.02 *Execution and Authentication.*

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

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

A Note will not be valid until authenticated by the manual signature of the Trustee. The signature will be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee will, upon receipt of a written order of the Company signed by at least one Officer (an “*Authentication Order*”), authenticate Notes for original issue that may be validly issued under this Indenture, including any Additional Notes. The aggregate principal amount of Notes outstanding at any time may not exceed the aggregate principal amount of Notes authorized for issuance by the Company pursuant to one or more Authentication Orders, except as provided in Section 2.07 hereof.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders, the Company or an Affiliate of the Company.

The certification by the Trustee on the Notes issued hereunder shall not be construed as a representation or warranty by the Trustee as to the validity of this Indenture or the Note certificate (except the due certification thereof) or as to the performance by the Company of its obligations under this Indenture and the Trustee shall in no respect be liable or answerable for the use made of the Notes, or any of them, or of the consideration therefor except as otherwise specified herein.

The Notes shall be issuable only in registered form without coupons and only in minimum denominations of C\$2,000 in aggregate principal amount and any integral multiples of C\$1,000 in excess thereof.

Section 2.03 *Registrar and Paying Agent.*

The Company will maintain an office or agency where Notes may be presented for registration of transfer or for exchange (“*Registrar*”) and an office or agency where Notes may be presented for payment (“*Paying Agent*”). The Registrar will keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term “*Registrar*” includes any co-registrar and the term “*Paying Agent*” includes any additional paying agent. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company will notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints CDS to act as Depositary with respect to the Global Notes.

The Company initially appoints the Co-Trustee to act as the Registrar and Paying Agent with respect to the Global Notes.

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

The Company will require each Paying Agent other than the Co-Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Co-Trustee all money held by the Paying Agent for the payment of principal of, premium on, if any, or interest, if any, on, the Notes, and will notify the Trustee and the Co-Trustee of any default by the Company in making any such payment. While any such default continues, the Co-Trustee may require a Paying Agent to pay all money held by it to the Co-Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Co-Trustee. Upon payment over to the Co-Trustee, the Paying Agent (if other than the Company or a Subsidiary of the Company) will have no further liability for the money. If the Company or a Subsidiary of the Company acts as Paying Agent, it will segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Co-Trustee will serve as Paying Agent for the Notes.

Section 2.05 *Holder Lists.*

The Trustee will preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders. If the Trustee is not the Registrar, the Company will furnish to the Trustee at least seven Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders.

Section 2.06 *Transfer and Exchange.*

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

- (1) CDS notifies the Company that it is unwilling or unable to continue as Depository for the Global Note and the Company is unable to locate a qualified successor;
- (2) such exchange is required by applicable law, as determined by the Company and its counsel;
- (3) CDS ceases to be a clearing agency or otherwise ceases to be eligible to be a depository and the Company is unable to locate a qualified successor;
- (4) the Company, at its option, elects to terminate the book-entry system and notifies the Trustee and the Co-Trustee that the Company elects to cause the issuance of Definitive Notes;
- (5) the Company determines that CDS is no longer willing, able or qualified to discharge properly its responsibilities as holder of the Global Note and the Company is unable to locate a qualified successor; or
- (6) there has occurred and is continuing a Default or Event of Default with respect to the Notes.

Upon the occurrence of any of the preceding events in (1), (2), (3), (4), (5) or (6) above, Definitive Notes shall be issued in such names, and issued in any approved denominations, as requested by or on behalf of the Depositary to the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note, except for Definitive Notes issued subsequent to any of the events described in clauses (1), (2), (3), (4), (5) or (6) above and pursuant to clause (c) below. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (d) hereof.

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

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes will be subject to restrictions on transfer comparable to those set forth herein and to the extent required by the Securities Act and any other applicable securities laws. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *Transfer of Beneficial Interests in the Same Global Note.* Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; *provided, however*, that prior to the expiration of the applicable Restricted Period, transfers of beneficial interests in a Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(1) above, the transferor of such beneficial interest must deliver to the Registrar the applicable certificates prescribed by the succeeding sections and subparagraphs and either:

(A) both:

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

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

(B) both:

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

(ii) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above.

Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(g) hereof.

(3) *Transfer of Beneficial Interests to Another Restricted Global Note.* A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(2) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in a 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transferee will take delivery in the form of a beneficial interest in a Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transferee will take delivery in the form of a beneficial interest in a IAI Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(4) *Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note.* A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(2) above and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (4), if the Company or the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Company or the Registrar, as applicable, to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer or exchange is effected at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests so transferred or exchanged.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

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

(1) *Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes.* If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon the occurrence of any of the events described in clause (1), (2) or (3) of Section 2.06(a) hereof and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

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

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(1) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(2) *Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes.* A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note upon the occurrence of any of the events described in clause (1), (2) or (3) of Section 2.06(a) hereof and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (2), if the Company or the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Company or the Registrar, as applicable, to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) *Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes.* If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon the occurrence of any of the events described in clause (1), (2), (3), (4), (5) or (6) of Section 2.06(a) hereof and satisfaction of the conditions set forth in Section 2.06(b)(2) hereof, the Trustee will cause the aggregate principal amount of the applicable Unrestricted Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(3) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depository and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(3) will not bear the Private Placement Legend.

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

(1) *Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes.* If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3) (a) thereof;

(E) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

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

the Trustee will cancel the Restricted Definitive Note and increase or cause to be increased the aggregate principal amount of the appropriate Restricted Global Note pursuant to Section 2.06(g) hereof.

(2) *Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(B) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (2), if the Company or the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Company or the Registrar, as applicable, to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(2), the Trustee will cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(3) *Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of an applicable Unrestricted Global Note.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraphs (2) or (3) above at a time when an Unrestricted Global Note has not yet been issued, the Company will issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee will authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so exchanged or transferred.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes.* Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder must provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(1) *Restricted Definitive Notes to Restricted Definitive Notes.* Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(2) *Restricted Definitive Notes to Unrestricted Definitive Notes.* Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (2), if the Company or the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company or the Registrar, as applicable, to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

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

(f) *Legends.* The following legends will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) *Private Placement Legend.*

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear a legend in substantially the following form:

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

BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT. BY ITS ACQUISITION OF THIS SECURITY OR ANY INTEREST HEREIN, THE HOLDER THEREOF WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT EITHER (1) NO PORTION OF THE ASSETS USED BY SUCH HOLDER TO ACQUIRE OR HOLD THIS SECURITY CONSTITUTES OR WILL CONSTITUTE THE ASSETS OF AN EMPLOYEE BENEFIT PLAN THAT IS SUBJECT TO TITLE I OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), A PLAN, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER ARRANGEMENT THAT IS SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”) OR PROVISIONS UNDER ANY OTHER FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS OR REGULATIONS THAT ARE SIMILAR TO SUCH PROVISIONS OF ERISA OR THE CODE (COLLECTIVELY, “SIMILAR LAWS”), OR OF AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE “PLAN ASSETS” (WITHIN THE MEANING OF U.S. DEPARTMENT OF LABOR REGULATION 29 C.F.R. SECTION 2510.3-101, AS MODIFIED BY SECTION 3(42) OF ERISA) OF ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT, OR (2) THE ACQUISITION AND HOLDING OF THIS SECURITY OR ANY INTEREST HEREIN WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE OR A SIMILAR VIOLATION UNDER ANY APPLICABLE SIMILAR LAWS.

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(4), (c)(2), (c)(3), (d)(2), (d)(3), (e)(2) or (e)(3) of this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) will not bear the Private Placement Legend.

(2) *Global Note Legend.* Each Global Note will bear a legend in substantially the following form (with appropriate changes in the last sentence if CDS is not the Depository):

“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06 OF THE INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06 OF THE INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.”

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF CDS CLEARING AND DEPOSITORY SERVICES INC. (“CDS”), TO RITCHIE BROS. HOLDINGS LTD. OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IN RESPECT THEREOF IS REGISTERED IN THE NAME OF CDS & CO., OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS (AND ANY PAYMENT IS MADE TO CDS & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED HOLDER HEREOF, CDS & CO., HAS A PROPERTY INTEREST IN THE SECURITIES REPRESENTED BY THIS CERTIFICATE HEREIN AND IT IS A VIOLATION OF ITS RIGHTS FOR ANOTHER PERSON TO HOLD, TRANSFER OR DEAL WITH THIS CERTIFICATE.”

(3) *Canadian Legend.* In addition to any other legend required by this Indenture, all Notes will bear the following legend:

“IN ACCORDANCE WITH NATIONAL INSTRUMENT 45-102 – RESALE OF SECURITIES, UNLESS PERMITTED UNDER CANADIAN SECURITIES LEGISLATION, THE HOLDER OF THESE NOTES MUST NOT TRADE THE NOTES IN CANADA BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (i) THE DATE OF THE DISTRIBUTION OF SUCH NOTES, AND (ii) THE DATE RITCHIE BROS. HOLDINGS LTD. BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.”

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

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

(1) To permit registrations of transfers and exchanges, the Company will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 hereof or at the Registrar's request.

(2) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 4.10, 4.15 and 9.04 hereof).

(3) The Registrar will not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) Neither the Registrar nor the Company will be required:

(A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection;

(B) to register the transfer of or to exchange any Note (i) selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (ii) that have been tendered and not withdrawn in connection with a Change of Control Offer; or

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company shall deem and treat the Person in whose name any Note is registered by the Registrar as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

(8) All orders, certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

None of the Trustee or any Agent shall have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Participants or beneficial owners of interests in any Definitive Note or Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, to examine the same to determine substantial compliance as to form with the express requirements hereof and to examine the register to determine the owner of such Note.

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

Section 2.07 *Replacement Notes.*

If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company will issue and the Trustee, upon receipt of an Authentication Order, will authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company and the Trustee may charge for its expenses in replacing a Note.

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

Section 2.08 *Outstanding Notes.*

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a redemption date or maturity date, money sufficient to pay Notes payable on that date, then on and after that date such Notes will be deemed to be no longer outstanding and will cease to accrue interest.

Section 2.09 *Treasury Notes.*

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any Guarantor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Guarantor, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned will be so disregarded.

Section 2.10 *Temporary Notes.*

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

Holders of temporary Notes will be entitled to all of the benefits of this Indenture.

Section 2.11 *Cancellation.*

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent will forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else will cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and will destroy canceled Notes (subject to the record retention requirements of the Exchange Act). Certification of the destruction of all canceled Notes will be delivered to the Company. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.12 *Defaulted Interest.*

If the Company defaults in a payment of interest on the Notes, it will pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Company will notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company will fix or cause to be fixed each such special record date and payment date; *provided* that no such special record date may be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) will mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.13 *Issuance of Additional Notes.*

The Company shall be entitled, upon delivery of an Officer's Certificate, Opinion of Counsel and Authentication Order, to issue Additional Notes under this Indenture which shall have identical terms as the Initial Notes issued on the Issue Date, other than with respect to the date of issuance and issue price and, if applicable, the initial interest accrual date and the initial interest payment date, subject to compliance with Section 4.09 hereof. The Initial Notes and any Additional Notes issued will be treated as a single class for all purposes under this Indenture, provided that if the Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, the Additional Notes will have a separate CUSIP number.

With respect to any Additional Notes, the Company shall set forth in a resolution of its Board of Directors and an Officer's Certificate, a copy of each which shall be delivered to the Trustee, the following information: (1) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture, (2) the issue price, the date of issuance and the CUSIP number of such Additional Notes and (3) that the issuance of such Additional Notes does not contravene Section 4.09 hereof.

ARTICLE 3
REDEMPTION AND PREPAYMENT

Section 3.01 *Notices to Trustee.*

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it must furnish to the Trustee, at least 15 days but not more than 60 days before a redemption date, an Officer's Certificate setting forth:

- (1) the clause of this Indenture pursuant to which the redemption shall occur;
- (2) the redemption date;

- (3) the principal amount of Notes to be redeemed; and
- (4) the redemption price, if known at the time such notice is given.

If the redemption price is not known at the time such notice is to be given, the redemption price shall be set forth in an Officer's Certificate delivered to the Trustee no later than two Business Days prior to the redemption date.

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

If less than all of the Notes are to be redeemed at any time, the Trustee will select the Notes for redemption (1) in compliance with the requirements of the principal securities exchange, if any, on which the Notes are listed, as certified to the Trustee by the Company, (2) if the Notes are not so listed or such exchange prescribes no method of selection, in compliance with the requirements of CDS, or (3) if the Notes are not so listed or such exchange prescribes no method of selection, and the Notes are not held through CDS or CDS prescribes no method of selection, on a pro rata basis, by round lot, subject to adjustments so that no Note in an unauthorized denomination remains outstanding after such redemption; *provided, however*, that no Note of C\$2,000 in aggregate principal amount or less shall be redeemed in part.

Section 3.03 *Notice of Redemption.*

Except as set forth in Section 3.09, notice of redemption will be sent electronically or mailed by first-class mail at least 15 but not more than 60 days before the redemption date to each Holder at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Articles 8 or 11 hereof.

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

- (1) the redemption date;
- (2) the redemption price, or manner of calculation thereof if not then known;
- (3) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued (or transferred by book-entry) upon cancellation of the original Note;
- (4) the name and address of the Paying Agent;
- (5) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (6) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;
- (7) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;
and
- (8) that no representation is made as to the correctness or accuracy of the CUSIP/CINS number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee will give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company has delivered to the Trustee, at least 45 days prior to the redemption date (unless a shorter time is agreed to by the Trustee), an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Notice of any redemption of the Notes in connection with a corporate transaction (including an Equity Offering, an incurrence of Indebtedness, an amalgamation, consolidation or merger or a Change of Control) may, at the Company's discretion, be given prior to the completion thereof and any such redemption or notice may, at the Company's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of the related transaction. If such redemption or purchase is so subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Company's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied or waived by the Company (in its sole discretion), or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied or waived by the redemption date, or by the redemption date as so delayed. In addition, the Company may provide in such notice that payment of the redemption price and performance of the Company's obligations with respect to such redemption may be performed by another Person.

Section 3.04 *Effect of Notice of Redemption.*

Once notice of redemption is mailed or sent in accordance with Section 3.03 hereof, except as may be provided in Section 3.03 if any such redemption is subject to any condition precedent, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price.

Section 3.05 *Deposit of Redemption or Purchase Price.*

Not later than 10:00 a.m. (New York City time) on the redemption or purchase date, the Company will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of, and accrued and unpaid interest, if any, on, all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of, and accrued and unpaid interest, if any, on, all Notes to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest will cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date, and no additional interest will be payable to Holders whose Notes will be subject to redemption by the Company. If any Note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

Section 3.06 *Notes Redeemed or Purchased in Part.*

Upon surrender of a Note that is redeemed or purchased in part, the Company will issue and, upon receipt of an Authentication Order, the Trustee will authenticate for the Holder (or transfer by book-entry) at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered.

Section 3.07 *Optional Redemption.*

(a) At any time prior to December 15, 2024, the Notes will be redeemable, at the Company's option, in whole or in part from time to time, upon not less than 15 nor more than 60 days' written notice, at a price equal to the Canada Yield Price plus accrued and unpaid interest, if any, to, but excluding, the redemption date (subject to the right of holders of record on the applicable record date to receive interest due on the applicable interest payment date).

(b) In addition, the Company may redeem the Notes at its option, in whole or in part, upon not less than 15 nor more than 60 days' written notice, at the following redemption prices (expressed as percentages of the principal amount thereof) plus accrued and unpaid interest, if any, to, but excluding, the redemption date if redeemed during the 12-month period commencing on December 15 of the year set forth below:

Year	Percentage
2024	102.475%
2025	101.238%
2026 and thereafter	100.000%

In addition, the Company must pay accrued and unpaid interest on the Notes redeemed to, but excluding, the redemption date (subject to the right of Holders on the applicable record date to receive interest due on the applicable interest payment date).

(c) At any time, or from time to time, on or prior to December 15, 2024 the Company may, at its option, use an amount of cash up to the Net Cash Proceeds of one or more Equity Offerings to redeem, upon not less than 15 nor more than 60 days' written notice up to 40% of the principal amount of the Notes (including any Additional Notes) outstanding under this Indenture at a redemption price of 104.950% of the principal amount thereof plus accrued and unpaid interest thereon, if any, to, but excluding, the redemption date (subject to the right of Holders on the applicable record date to receive interest due on the applicable interest payment date); *provided that*:

(1) at least 50% of the principal amount of Notes (including any Additional Notes) outstanding under this Indenture remains outstanding immediately after any such redemption; and

(2) the Company makes such redemption not more than 90 days after the consummation of any such Equity Offering.

(d) If, as a result of:

(1) any amendment to, or change in, the laws or treaties (or regulations or rulings promulgated thereunder) of any Relevant Taxing Jurisdiction which is announced or becomes effective on or after the Issue Date (or, where a jurisdiction in question does not become a Relevant Taxing Jurisdiction until a later date, such later date); or

(2) any amendment to, or change in, the existing official written position or the introduction of a written official position regarding the application, interpretation, administration or assessing practices of any such laws, regulations or rulings of any Relevant Taxing Jurisdiction, or a judicial decision rendered by a court of competent jurisdiction (whether or not made, taken or reached with respect to the Company or any of the Guarantors) which is announced on or after, and becomes effective on or after (or is implemented with an effective date prior to), the Issue Date (or, where a jurisdiction in question does not become a Relevant Taxing Jurisdiction until a later date, such later date),

the Company or any Guarantor has become or will become obligated to pay, on the next date on which any amount would be payable with respect to the Notes or a Note Guarantee, as applicable, Additional Amounts or indemnification payments as described under Section 4.16 with respect to the Relevant Taxing Jurisdiction, which payment the Company or the Guarantor (but, in the case of a Guarantor, only if the payment giving rise to such requirement cannot be made by the Company or another Guarantor without the obligation to pay Additional Amounts) cannot avoid with the use of reasonable measures available to it (including making payment through a paying agent located in another jurisdiction), then the Company may, at its option, redeem all but not less than all of the Notes, upon not more than 60 days' notice prior to the earliest date on which the Company or a Guarantor, as applicable, would be required to pay such Additional Amounts or indemnification payments, at a redemption price of 100% of their principal amount, plus accrued and unpaid interest, if any, to, but excluding, the redemption date (subject to the right of Holders on the applicable record date to receive interest due on the applicable interest payment date). The Company will not give any such notice of redemption unless at the time such notice is given, the obligation to pay Additional Amounts remains in effect. Prior to the giving of any notice of redemption described in this Section 3.07(d), the Company will deliver to the Trustee a written opinion of independent legal counsel to the Company or the Guarantor, as applicable, of recognized standing and reasonably satisfactory to the Trustee (such approval not to be unreasonably withheld, conditioned or delayed), to the effect that the Company or the Guarantor, as applicable, has or will become obligated to pay such Additional Amounts or indemnification payments as a result of an amendment or change described in this Section 3.07(d).

In addition, prior to the giving of any such notice of redemption, the Company will deliver to the Trustee an Officer's Certificate to the effect that the obligation to pay Additional Amounts cannot be avoided by the Company or the applicable Guarantor (but, in the case of a Guarantor, only if the payment giving rise to such requirement cannot be made by the Company or another Guarantor without the obligation to pay Additional Amounts) taking reasonable measures available to it; provided that changing the jurisdiction of incorporation or formation of the Company or applicable Guarantor shall not be considered a reasonable measure.

The Trustee will accept and may rely conclusively on such Officer's Certificate and opinion of counsel as sufficient evidence of the existence and satisfaction of the conditions precedent as described above, in which event it will be conclusive and binding on the Holders.

(e) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

(f) Notwithstanding anything herein to the contrary, in connection with any Change of Control Offer or Net Proceeds Offer, if Holders of not less than 90% in aggregate principal amount of the outstanding Notes validly tender and do not validly withdraw such Notes in such Change of Control Offer or Net Proceeds Offer and the Company, or any third party making a such Change of Control Offer or Net Proceeds Offer in lieu of the Company, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Company or such third party will have the right upon not less than 15 nor more than 60 days' prior notice, given not more than 30 days following such purchase date, to redeem all Notes that remain outstanding following such purchase at a redemption price equal to the price offered to each other Holder in such Change of Control Offer or Net Proceeds Offer plus, to the extent not included, accrued and unpaid interest, if any, thereon, to, but excluding, such redemption date.

Section 3.08 *Mandatory Redemption.*

Except as described under Section 3.09, the Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

Section 3.09 *Special Mandatory Redemption.*

If (i) the Escrow Agent has not received the Officer's Certificate pursuant to the Escrow Agreement providing for the Escrow Release prior to the Escrow End Date and the Escrow Agent does not receive such Officer's Certificate on the Escrow End Date or (ii) the Company notifies the Escrow Agent and the Trustee in writing that the Company will not pursue the consummation of the Acquisition or that the Share Purchase Agreement has been terminated in accordance with its terms (each of the above, a "*Special Mandatory Redemption Event*"), then the Escrow Agent shall, without the requirement of notice to or action by the Company, the Trustee or any other person, liquidate and release the Escrowed Property (including investment earnings thereon and proceeds thereof) to the Trustee. The Company shall send or cause to be sent a notice of redemption to the Holders of the Notes and the Trustee shall apply (or cause a paying agent to apply) such proceeds to redeem the Notes (the "*Special Mandatory Redemption*") on the third Business Day following the Special Mandatory Redemption Event (the "*Special Mandatory Redemption Date*") or as otherwise required by the applicable procedures of CDS, at a redemption price equal to 100% of the issue price of the Notes, plus accrued and unpaid interest from the Issue Date, or the most recent date to which interest has been paid, as the case may be, to, but excluding the Special Mandatory Redemption Date (subject to the right of Holders on the applicable record date to receive interest due on the applicable interest payment date). On the Special Mandatory Redemption Date, after deduction of its and the Escrow Agent's fees and expenses, if any, the Trustee will pay to the Company any Escrowed Property in excess of the amount necessary to affect the Special Mandatory Redemption.

ARTICLE 4
COVENANTS

Section 4.01 *Payment of Notes.*

The Company will pay or cause to be paid the principal of, premium on, if any, and interest on, the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest will be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. New York City time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest, if any, then due.

The Company will pay interest (including post-petition interest in any proceeding or case under any Bankruptcy Law) on overdue principal at the interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding or case under any Bankruptcy Law) on overdue installments of interest, if any (without regard to any applicable grace period), at the same rate to the extent lawful.

Section 4.02 *Maintenance of Office or Agency.*

The Company will maintain in the City of Toronto, Ontario, an office or agency (which may be an office of the Co-Trustee or an affiliate of the Co-Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee or the Co-Trustee of the location, and any change in the location, of such office or agency. If at any time the Company fails to maintain any such required office or agency or fails to furnish to at least one of the Trustee or the Co-Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Co-Trustee.

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

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03 hereof.

Section 4.03 *Reports to Holders.*

(a) Notwithstanding that Parent may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or otherwise report on an annual and quarterly basis on forms provided for such annual and quarterly reporting pursuant to rules and regulations promulgated by the SEC, from and after the Issue Date, Parent will furnish to the Trustee, within 15 days after the time periods specified below:

(1) within 90 days after the end of each fiscal year, all financial information (including audited financial statements) of Parent that would be required to be contained in an annual report on Form 10-K, or any successor or comparable form, filed with the SEC, including a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and a report on the annual financial statements by Parent’s independent registered public accounting firm;

(2) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, all financial information of Parent that would be required to be contained in a quarterly report on Form 10-Q, or any successor or comparable form, filed with the SEC; and

(3) promptly after the occurrence of any of the following events (but in no event later than an registrant would be required to report such event on a Form 8-K), all current reports to the extent relating to such event that would be required to be filed with the SEC on Form 8-K or any successor or comparable form (if Parent had been a reporting company under Section 15(d) of the Exchange Act):

- (a) the entry into or termination of material agreements;
- (b) significant acquisitions or dispositions;
- (c) the sale of equity securities;
- (d) bankruptcy;
- (e) cross-default under direct material financial obligations;
- (f) a change in Parent’s certifying independent auditor;
- (g) the appointment or departure of directors or executive officers;

- (h) non-reliance on previously issued financial statements; and
- (i) change of control transactions,

in each case, in a manner that complies in all material respects with the requirements specified in such form, except as described above or below and subject to exceptions consistent with the presentation of information in the Offering Circular; *provided*, that the foregoing shall not obligate Parent to (i) make available any information otherwise required to be included on a Form 8-K regarding the occurrence of any such events if Parent determines in its good faith judgment that such event that would otherwise be required to be disclosed is not material to the Holders of the Notes or the business, assets, operations, financial positions or prospects of Parent and its Restricted Subsidiaries taken as a whole or (ii) make available copies of any agreements, financial statements or other items that would be required to be filed as exhibits to such report.

(b) Notwithstanding Section 4.03(a), Parent shall not be required to (i) comply with Regulation G under the Exchange Act or Item 10(e) of Regulation S-K with respect to any “non-GAAP” financial information contained in any report required by clauses (1), (2) and (3) of Section 4.03(a), (ii) provide any information that is not otherwise similar to information currently included in the Offering Circular or (iii) provide the type of information contemplated by Rule 3-16 of Regulation S-X with respect to financial statements of affiliates whose securities collateralize certain securities or Rule 3-10 of Regulation S-X with respect to separate financial statements for Guarantors or any financial statements for unconsolidated subsidiaries or 50% or less owned persons contemplated by Rule 3-09 of Regulation S-X or any schedules required by Regulation S-X, or in each cash any successor provisions; *provided* that, Parent shall provide the revenues, “EBITDA”, “Adjusted EBITDA”, assets and liabilities of (i) Parent, the Company and the Guarantors, collectively and (ii) the non-Guarantors, collectively, separately in a manner consistent with the presentation thereof in the Offering Circular, to the extent required in such form. In addition, notwithstanding Section 4.03(a) or the foregoing, Parent will not be required to (i) comply with Sections 302, 906 and 404 of the Sarbanes-Oxley Act of 2002, as amended, or (ii) otherwise furnish any information, certificates or reports required by Items 307 or 308 of Regulation S-K. To the extent any such information is not so filed or furnished, as applicable, within the time periods specified in Section 4.03(a) and such information is subsequently filed or furnished, as applicable, Parent will be deemed to have satisfied its obligations with respect thereto at such time and any Default with respect thereto shall be deemed to have been cured.

(c) At any time that any of Parent’s Subsidiaries are Unrestricted Subsidiaries and if any such Unrestricted Subsidiary or group of Unrestricted Subsidiaries, if taken together as one Subsidiary, would constitute a Significant Subsidiary, then the annual and quarterly financial information required by the Section 4.03(a) will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” of the financial condition and results of operations of Parent and its Restricted Subsidiaries separate from the financial condition and results of operations of such Unrestricted Subsidiaries.

(d) Substantially concurrently with the furnishing or making such information available to the Trustee pursuant to this Section 4.03, Parent shall also post copies of such information required by this Section 4.03 on a website (which may be nonpublic and may be maintained by Parent or a third party) to which access will be given to Holders, prospective investors in the Notes (which prospective investors shall be limited to “qualified institutional buyers” within the meaning of Rule 144A of the Securities Act or Non-U.S. persons that certify their status as such to the reasonable satisfaction of Parent), and securities analysts and market making financial institutions that are reasonably satisfactory to Parent.

(e) The Trustee shall have no obligation to determine if and when Parent's financial statements or reports are publicly available and accessible electronically. Delivery of these reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of them will not constitute constructive notice of any information contained therein or determinable from information contained therein, including Parent's compliance with any of its covenants hereunder (as to which the Trustee may rely exclusively on Officer's Certificates).

(f) Parent will hold quarterly conference calls for the Holders to discuss financial information for the previous quarter (it being understood that such quarterly conference call may be the same conference call as with Parent's equity investors and analysts). Such conference calls will be following the last day of each fiscal quarter of Parent and not later than 15 Business Days from the time that Parent distributes the financial information as set forth in Section 4.03(a). No fewer than two days prior to the conference call, Parent will issue a press release announcing the time and date of such conference call and providing instructions for Holders, securities analysts and prospective investors to obtain access to such call; *provided, however*, that such press release can be distributed solely to certified users of the website described in Section 4.03(d).

(g) To the extent not satisfied by this Section 4.03, Parent shall, for so long as any Notes are outstanding, furnish to Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(h) Notwithstanding anything to the contrary set forth in this Section 4.03, if Parent has furnished or filed the reports described in this Section 4.03 with respect to Parent with the SEC via EDGAR (or any successor reporting system of the SEC), Parent shall be deemed to be in compliance with the provisions of this Section 4.03; *provided* that the Trustee shall not have any responsibility to determine if any documents have been so filed.

Section 4.04 *Compliance Certificate.*

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year ended after the Issue Date, an Officer's Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has complied with this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has complied with this Indenture and no Default or Event of Default has occurred during such period (or, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto).

(b) So long as any of the Notes are outstanding, the Company will deliver to the Trustee, within 15 Business Days after an Officer becomes aware of any Default or Event of Default, an Officer's Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05 *Taxes.*

The Company will pay, and will cause each of its Restricted Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

Section 4.06 *Stay, Extension and Usury Laws.*

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

Section 4.07 *Restricted Payments.*

(a) Parent shall not, and shall not cause or permit any of its Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any distribution (other than (A) dividends or distributions payable in Qualified Capital Stock of Parent or (B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary that is not a Wholly Owned Restricted Subsidiary, Parent or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Capital Stock in such class or series of securities) on or in respect of shares of Parent's Capital Stock to holders of such Capital Stock;

(2) purchase, redeem or otherwise acquire or retire for value any Capital Stock of Parent or any warrants, rights or options to purchase or acquire shares of any class of such Capital Stock (other than Disqualified Capital Stock within 365 days of the Stated Maturity thereof);

(3) make any principal payment on, purchase, defease, redeem, prepay, decrease or otherwise acquire or retire for value, earlier than one year prior to any scheduled final maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness (other than Subordinated Indebtedness held by Parent or any of its Restricted Subsidiaries); 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) Parent is not able to incur at least \$1.00 of additional Indebtedness in compliance with Section 4.09(a); or

(iii) the aggregate amount of Restricted Payments (including such proposed Restricted Payment) made subsequent to the first day of the fiscal quarter of Parent during which the Issue Date occurs (the amount expended for such purposes, if other than in cash, being the fair market value of such property as determined in good faith by the Board of Directors of Parent or the Company) shall exceed the sum, without duplication, of:

(w) 50% of the cumulative Consolidated Net Income (or if cumulative Consolidated Net Income shall be a loss, minus 100% of such loss) of Parent earned subsequent to October 1, 2016 (the "Look-back Date") and on or prior to the date the Restricted Payment occurs (the "Reference Date") (treating such period as a single accounting period); plus

(x) 100% of the aggregate net cash proceeds and the fair market value of readily marketable securities or other property received by Parent from any Person (other than a Subsidiary of Parent) from (i) the issuance and sale subsequent to the Look-back Date and on or prior to the Reference Date of Qualified Capital Stock of the Company or (ii) from the issue and sale subsequent to the Look-back Date and on or prior to the Reference Date of Disqualified Capital Stock or convertible or exchangeable debt securities of Parent, in the case of this clause (ii), that has been converted into or exchange for Qualified Capital Stock; *plus*

(y) without duplication of any amounts included in clause (iii)(x) above, 100% of the aggregate net cash proceeds and fair market value of readily marketable securities or other property, of any equity contribution received by Parent subsequent to the Look-back Date (excluding, in the case of clauses (iii)(x) and (y), any such net cash proceeds to the extent used to (i) redeem the Notes in compliance with Section 3.07(c) or (2) to make a Restricted Payment pursuant to clauses (2) or (3) of the immediately succeeding paragraph); *plus*

(z) the sum of:

(1) the aggregate amount in cash and fair market value of other property returned on or with respect to Investments (other than Permitted Investments) made subsequent to the Look-back Date whether through interest payments, principal payments, dividends, by merger, consolidation amalgamation or other distribution, payment or transfer;

(2) the net cash proceeds received by Parent or any of its Restricted Subsidiaries subsequent to the Look-back Date from the disposition of all or any portion of such Investments (other than to Parent or a Subsidiary of Parent); and

(3) upon redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary (except to the extent the Investment constituted a Permitted Investment), the fair market value of such Subsidiary;

provided, however, that the sum of subclauses (z)(1), (z)(2) and (z)(3) above shall not exceed the aggregate amount of all such Investments made subsequent to the Look-back Date.

(b) Notwithstanding the foregoing, the provisions set forth in Section 4.07(a) do not prohibit:

(1) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration of such dividend or distribution or giving of the redemption notice, as the case may be, if the dividend, distribution or redemption payment would have been permitted on the date of declaration or giving of the redemption notice;

(2) if no Default or Event of Default shall have occurred and be continuing, the acquisition of any shares of Capital Stock of Parent, either (i) solely in exchange for shares of Qualified Capital Stock of Parent or (ii) through the application of net proceeds of a substantially concurrent sale for cash (other than to a Subsidiary of Parent) of shares of Qualified Capital Stock of Parent;

(3) if no Default or Event of Default shall have occurred and be continuing, the acquisition of any Indebtedness of the Company, Parent or a Guarantor that is subordinate or junior in right of payment to the Notes or such Guarantor's Note Guarantee, as the case may be, or the acquisition of Disqualified Capital Stock, in each case, either (i) solely in exchange for shares of Qualified Capital Stock of Parent, or (ii) in exchange for, or by conversion into, or through the application of net proceeds of a substantially concurrent sale for cash (other than to a Subsidiary of Parent), of (a) shares of Qualified Capital Stock of Parent or (b) Refinancing Indebtedness;

(4) if no Default or Event of Default shall have occurred and be continuing, repurchases, redemptions or other acquisitions by Parent of Common Stock of Parent (or options or warrants to purchase such Common Stock) from directors, officers, employees and consultants of Parent or any of its Subsidiaries or their authorized representatives upon the death, disability, retirement or termination of employment of such directors, officers, employees or consultants, in an aggregate amount not to exceed the sum of (x) \$5.0 million and (y) the amount of Restricted Payments permitted but not made pursuant to this clause (4) in prior fiscal years; *provided* that no more than \$5.0 million may be carried forward to any succeeding fiscal year; *provided, further, however*, that such amount in any calendar year may be increased by an amount not to exceed:

(a) the cash proceeds received by Parent or any of its Restricted Subsidiaries from the sale of Qualified Capital Stock of Parent to directors, officers, employees or consultants of Parent or its Restricted Subsidiaries subsequent to the Issue Date (provided that the amount of cash proceeds utilized for any such repurchase, redemption or other acquisition or dividend will not increase the amount available for Restricted Payments under clause (4)(iii) of Section 4.07(a)); plus

(b) the cash proceeds of key man life insurance policies received by Parent or its Restricted Subsidiaries after the Issue Date; *provided* that cancellation of Indebtedness owing to Parent or any of its Restricted Subsidiary from any present or former directors, officers, employees or consultants of Parent or any of its Restricted Subsidiaries in connection with a repurchase of Capital Stock of Parent will not be deemed to constitute a Restricted Payment for purposes of this Section 4.07 or any other provision of this Indenture;

(5) if no Event of Default shall have occurred and be continuing, other Restricted Payments in an amount not to exceed \$250.0 million in any fiscal year; *provided* that any unused portion of the preceding basket for any fiscal year (commencing with the fiscal year in which the Issue Date occurred) may be carried forward to the succeeding fiscal years;

(6) additional Restricted Payments; *provided, however*, that (i) after giving *pro forma* effect to any such Restricted Payment, the Consolidated Debt Ratio shall be less than or equal to 3.00 to 1.00 and (ii) no Event of Default shall have occurred and be continuing;

(7) in the event of a Change of Control, and if no Default or Event of Default shall have occurred and be continuing, the payment, purchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness of Parent or any Guarantor, in each case at a purchase price not greater than 101% of the principal amount of such Subordinated Indebtedness, plus accrued and unpaid interest thereon; *provided, however*, that prior to, or concurrently with, such payment, purchase, redemption, defeasance or other acquisition or retirement, the Company (or a third party to the extent permitted by this Indenture) has made a Change of Control Offer with respect to the Notes as a result of such Change of Control and has repurchased all Notes validly tendered and not withdrawn in connection with such Change of Control Offer;

(8) in the event of an Asset Sale that requires the Company to offer to repurchase Notes pursuant to Section 4.10, and if no Default or Event of Default shall have occurred and be continuing, the payment, purchase, redemption, defeasance or other acquisition or retirement of Subordinated Indebtedness of the Company, Parent or any Guarantor, in each case at a purchase price not greater than 100% of the principal amount of such Subordinated Indebtedness, plus accrued and unpaid interest thereon; *provided, however*, that (A) prior to, or concurrently with, such payment, purchase, redemption, defeasance or other acquisition or retirement, the Company has made an offer with respect to the Notes pursuant to Section 4.10 and has repurchased all Notes validly tendered and not withdrawn in connection with such offer and (B) the aggregate amount of all such payments, purchases, redemptions, defeasances or other acquisitions or retirements of all such Subordinated Indebtedness may not exceed the amount of the Net Cash Proceeds Amount remaining after the Company has complied with Section 4.10(a)(3);

(9) (a) repurchases of Common Stock deemed to occur upon the exercise of stock options, warrants, rights or other Equity Interests if the Common Stock represents a portion of the exercise price thereof or withholding taxes payable in connection with the exercise thereof and (b) Restricted Payments by Parent or any Restricted Subsidiary to allow the payment of cash in lieu of the issuance of fractional shares upon the exercise of stock options, warrants, rights or other Equity Interests or upon the conversion or exchange of Capital Stock of such Person;

(10) the distribution, as a dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to Parent or a Restricted Subsidiary by, Unrestricted Subsidiaries;

(11) (a) any Restricted Payment used to consummate the Transactions and to fund the payment of fees and expenses incurred in connection with the Transactions or owed by Parent or any Restricted Subsidiary of Parent, and any other payments made, including any such payments made to any direct or indirect parent of the Company to enable it to make payments in connection with the consummation of the Transactions, prior to or on or about the Escrow Release Date, in each case to the extent not materially inconsistent with the description of the Acquisition in the Offering Circular and (b) any Restricted Payment made under the Share Purchase Agreement or otherwise in connection with the Transactions; and

(12) the payment of any dividend or distribution by a Restricted Subsidiary that is a disregarded entity, partnership, or other flow-through entity for tax purposes, or a member of a consolidated, combined, or similar group, in an amount necessary for any direct or indirect equity owner who is liable for the payment of taxes as the regarded owner, partner, or other member of such Restricted Subsidiary, or is the parent of the group filing consolidated, combined, or similar returns with such Restricted Subsidiary to pay taxes with respect to the income, revenue, receipts, or capital of such Restricted Subsidiary or its Subsidiaries; *provided* that to the extent such dividend or distribution relates to the income, revenue, receipts, or capital of an Unrestricted Subsidiary, only to the extent cash is received from such Unrestricted Subsidiary for purposes of such dividend or distribution.

In determining the aggregate amount of Restricted Payments made subsequent to the Issue Date in accordance with Section 4.07(a)(iii), amounts expended pursuant to Section 4.07(b)(1) shall be included in such calculation.

For purposes of determining compliance with this Section 4.07, in the event that a proposed Restricted Payment (or portion thereof) meets the criteria of more than one of the categories of Restricted Payments described in Section 4.07(b)(1) through (12) above, or is entitled to be incurred pursuant to Section 4.07(a), Parent will be entitled to divide, classify or reclassify (based on circumstances existing on the date of such reclassification) such restricted payment or portion thereof in any manner that complies with this Section 4.07 and such Restricted Payment will be treated as having been made pursuant to only such clause or clauses or Section 4.07(a).

Section 4.08 *Dividend and Other Payment Restrictions Affecting Guarantors.*

(a) Parent will not, and will not cause or permit any Guarantor to, directly or indirectly, create or otherwise cause or permit to exist or become effective any encumbrance or restriction on the ability of any Guarantor of Parent to:

- (1) pay dividends or make any other distributions on or in respect of its Capital Stock to Parent or any other Guarantor;
- (2) make loans or advances or to pay any Indebtedness or other obligation owed to Parent or any other Guarantor; or
- (3) transfer any of its property or assets to Parent or any other Guarantor.

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

- (1) applicable law, rule regulation, decree or order;
- (2) the Notes and the related Note Guarantees, this Indenture and the Escrow Agreement;
- (3) customary subletting and non-assignment provisions of any contract or any lease governing a leasehold interest of Parent or any Restricted Subsidiary of Parent;
- (4) any agreement or instrument (including those governing Indebtedness (including Acquired Indebtedness) or Capital Stock) of a Person acquired by Parent or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the properties or assets of the Person, or the Equity Interests of the Person, so acquired;
- (5) contractual encumbrances or restrictions (i) in effect on the Issue Date or (ii) solely with respect to the Target Companies and their subsidiaries, in effect on the Escrow Release Date so long as such encumbrances or restrictions were not entered into in contemplation of the Acquisition;

(6) the Senior Secured Credit Facilities and any related documentation or an agreement governing other Indebtedness permitted to be incurred under this Indenture; *provided* that, with respect to any agreement governing such other Indebtedness, the provisions relating to such encumbrance or restriction, taken as a whole, are no less favorable to Parent in any material respect as determined by the Board of Directors of Parent in its reasonable and good faith judgment than the provisions contained in the Senior Secured Credit Facilities or this Indenture as in effect on the Issue Date;

(7) restrictions on the transfer of assets subject to any Lien permitted under this Indenture imposed by the holder of such Lien;

(8) restrictions and conditions imposed by any agreement to sell assets or Capital Stock permitted under this Indenture to any Person pending the closing of such sale;

(9) restrictions imposed by agreements governing obligations of International Restricted Subsidiaries which are permitted under this Indenture;

(10) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(11) customary provisions in joint venture agreements and other similar agreements (in each case relating solely to the respective joint venture or similar entity or the equity interests therein) entered into in the ordinary course of business;

(12) agreements evidencing Indebtedness of a Restricted Subsidiary that is not a Guarantor that is permitted under this Indenture for so long as such Restricted Subsidiary is not a Guarantor;

(13) customary restrictions on leases, subleases, licenses or asset sale agreements otherwise permitted under this Indenture;

(14) customary restrictions arising in connection with cash or other deposits in connection with Liens permitted under this Indenture;

(15) any document or instruments governing Indebtedness permitted pursuant to clause (13) of the definition of "Permitted Indebtedness";

(16) customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

(17) restrictions imposed by any agreement governing Indebtedness not restricted by covenant described under Section 4.09 so long as Parent shall have determined in good faith that such restrictions will not affect its obligation or ability to make any payments required under this Indenture or the Notes or otherwise perform its obligations hereunder or thereunder; and

(18) any encumbrances or restrictions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, restructurings, replacements or refinancings of those agreements, instruments or obligations referred to in clauses (1) through (14) above; *provided, however*, that the provisions relating to such encumbrance or restriction contained in any such agreements, taken as a whole, are no less favorable to Parent in any material respect as determined by the Board of Directors of Parent in their reasonable and good faith judgment than the provisions relating to such encumbrance or restriction contained in agreements referred to in such clause (1) through (14) above.

Nothing contained in this Section 4.08 shall prevent Parent or any of its Restricted Subsidiaries from (1) creating, incurring, assuming or suffering to exist any Liens otherwise permitted by Section 4.12 or (2) restricting the sale or other disposition of property or assets of Parent or any of its Restricted Subsidiaries that secure Indebtedness of Parent or any of its Restricted Subsidiaries.

For purposes of determining compliance with this Section 4.08, (1) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock and (2) the subordination of loans or advances made to Parent or any of its Restricted Subsidiaries to other Indebtedness incurred by Parent or any such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

Section 4.09 *Incurrence of Additional Indebtedness.*

(a) Parent 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, without limitation, Acquired Indebtedness); *provided, however*, that, Parent and its Restricted Subsidiaries may incur Indebtedness (including, without limitation, Acquired Indebtedness) if on the date of the incurrence of such Indebtedness, after giving pro forma effect to the incurrence thereof, the Consolidated Fixed Charge Coverage Ratio is at least 2.0 to 1.0; *provided, further*, that any Restricted Subsidiary of Parent that is not or will not, upon such incurrence, become a Guarantor may not incur Indebtedness under this paragraph if, after giving pro forma effect to such incurrence (including a pro forma application of the net proceeds therefrom), more than an aggregate principal amount equal to \$50.0 million of Indebtedness of such non-Guarantor Subsidiary would be outstanding under this paragraph at such time.

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

(1) Indebtedness under the Notes issued on the Issue Date (including the related Note Guarantees);

(2) (a) Indebtedness incurred pursuant to Credit Facilities in an aggregate principal amount at any time outstanding not to exceed the greater of \$1,500 million or (b) an additional aggregate principal amount of Consolidated Total Secured Indebtedness in an amount such that, on a pro forma basis after giving effect to the incurrence of such Indebtedness (and application of the net proceeds therefrom), the Consolidated Secured Debt Ratio would be no greater than 3.50 to 1.00;

(3) Indebtedness of Parent and its Restricted Subsidiaries outstanding on the Issue Date (other than Indebtedness under clause (1) and (2) of this Section 4.09(b)) (including any amendments or replacements thereof that do not increase the principal amount);

(4) Interest Swap Obligations of Parent or any of its Restricted Subsidiaries covering Indebtedness of Parent or such Restricted Subsidiary; *provided, however*, that (a) such Interest Swap Obligations are entered into for the purpose of mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by Parent or such Restricted Subsidiary, or changes in the value of securities issued by Parent or such Restricted Subsidiary, and not for purposes of speculation or taking a “market view”;

(5) Indebtedness under Currency Agreements; *provided* that in the case of Currency Agreements which relate to Indebtedness, such Currency Agreements do not increase the Indebtedness of Parent and its Restricted Subsidiaries outstanding other than as a result of fluctuations in currency exchange rates or by reason of fees, indemnities and compensation payable thereunder;

(6) Indebtedness of Parent owing to and held by any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary of Parent owing to and held by Parent or any other Restricted Subsidiary of Parent; *provided, however*, that: (a) any subsequent issuance or transfer of Capital Stock or any other event which results in any such Indebtedness being held by a Person other than Parent or a Restricted Subsidiary of Parent, and (b) any sale or other transfer (excluding Permitted Liens) of any such Indebtedness to a Person other than Parent or a Restricted Subsidiary of Parent, shall be deemed, in each case, to be the incurrence of Indebtedness by Parent or such Restricted Subsidiary, as the case may be, not permitted by this clause (6);

(7) (a) obligations pursuant to any Cash Management Agreement and other Indebtedness in respect of netting services, overdraft protections and similar arrangements and (b) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(8) Indebtedness of Parent or any of its Restricted Subsidiaries (a) represented by letters of credit, pledges or deposits for the account of Parent or such Restricted Subsidiary, as the case may be, in order to provide security for workers' compensation claims, payment obligations in connection with self-insurance, the purchase of goods or other requirements in the ordinary course of business or (b) owing to any insurance company in connection with the financing of any insurance premiums permitted by such insurance company in the ordinary course of business;

(9) Indebtedness represented by guarantees by Parent or its Restricted Subsidiaries of Indebtedness otherwise permitted to be incurred under this Indenture; *provided* that, in the case of a guarantee by a Restricted Subsidiary, such Restricted Subsidiary complies with Section 4.18 to the extent applicable;

(10) Indebtedness of Parent or any of its Restricted Subsidiaries in respect of bid, payment and performance bonds, bankers' acceptances, workers' compensation claims, surety or appeal bonds, payment obligations in connection with insurance or similar obligations, and bank overdrafts (and letters of credit in respect thereof) in the ordinary course of business;

(11) Indebtedness of Parent or any Restricted Subsidiary consisting of guarantees, earn-outs, incentives, non-competes, consulting, indemnities or other similar arrangements or obligations (contingent or other) in respect of purchase price adjustments in connection with the acquisition (including the Acquisition and related transactions) or disposition of assets;

(12) Indebtedness of (x) Parent or any Restricted Subsidiary incurred or issued to finance an acquisition or (y) Persons that are acquired by Parent or any Restricted Subsidiary or merged into or amalgamated or consolidated with Parent or a Restricted Subsidiary in accordance with the terms of this Indenture; *provided* that after giving effect to such acquisition, merger, amalgamation or consolidation, either: (a) Parent would be permitted 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 this covenant; (b) the Consolidated Fixed Charge Coverage Ratio of Parent and its Restricted Subsidiaries would not be lower than immediately prior to such acquisition, merger, amalgamation or consolidation; or (c) such Indebtedness constitutes Acquired Indebtedness; *provided* that, with respect to this clause (c), the only obligors with respect to such Acquired Indebtedness shall be those Persons who were obligors of such Acquired Indebtedness prior to such acquisition, merger, amalgamation or consolidation; *provided, further*, that any Restricted Subsidiary of Parent that is not or will not, upon such incurrence, become a Guarantor may not incur Indebtedness under clause (x) of this clause (12) if, after giving pro forma effect to such incurrence (including a pro forma application of the net proceeds therefrom), more than an aggregate principal amount equal to \$75.0 million of Indebtedness of such non-Guarantor Subsidiary would be outstanding under clause (x) of this clause (12) at such time;

(13) Indebtedness represented by Capitalized Lease Obligations and Purchase Money Indebtedness of Parent and its Restricted Subsidiaries in an aggregate principal amount at any time outstanding, including any Refinancing Indebtedness in respect thereof, not to exceed the greater of (A) \$200.0 million and (B) 40% of Consolidated EBITDA for the Applicable Measurement Period;

(14) Indebtedness of International Restricted Subsidiaries (other than Canadian Restricted Subsidiaries) of Parent in connection with letters of credit and bank guarantees in an aggregate principal amount at any time outstanding not to exceed the greater of \$50.0 million and 10% of Consolidated EBITDA for the Applicable Measurement Period;

(15) Indebtedness of Parent evidenced by commercial paper issued by Parent; *provided* that the aggregate outstanding principal amount of Indebtedness incurred pursuant to clause (2) of this Section 4.09(b) and this clause (15) does not exceed the maximum amount of Indebtedness permitted under clause (2) of this Section 4.09(b);

(16) Refinancing Indebtedness in respect of Indebtedness described in clauses (1), (2), (3), (4), (5), (12), (14) and (18) of this Section 4.09(b) and this clause (16);

(17) Indebtedness represented by Secured Foreign Credit Facilities;

(18) additional unsecured Indebtedness in the form of one or more revolving credit facilities with one or more commercial banks in an aggregate principal amount at any time outstanding not to exceed \$100.0 million; and

(19) additional Indebtedness of Parent and the Restricted Subsidiaries in an aggregate principal amount at any time outstanding, including any Refinancing Indebtedness in respect thereof, not to exceed the greater of (A) \$200.0 million and (B) 40% of Consolidated EBITDA for the Applicable Measurement Period.

For purposes of determining compliance with this Section 4.09: (a) in determining any particular amount of Indebtedness under this Section 4.09, guarantees, Liens or letter of credit obligations supporting Indebtedness otherwise included in the determination of such particular amount shall not be included; (b) in the event that all or a portion of an item of Indebtedness meets the criteria of more than one of the categories of Permitted Indebtedness described in clauses (1) through (19) of Section 4.09(b) or is permitted to be incurred pursuant to Section 4.09(a), the Company shall, in its sole discretion, divide, classify and reclassify such item or portion of such item of Indebtedness in any manner that complies with this Section 4.09, including under Section 4.09(a) if such reclassified Indebtedness could then be incurred under such test, except that Indebtedness outstanding under the Senior Secured Credit Facilities on the Issue Date or the Escrow Release Date shall be deemed to have been incurred on the Issue Date or the Escrow Release Date under Section 4.09(b)(2) and may not be reclassified; (c) accrual of interest, accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the payment of dividends on Disqualified Capital Stock in the form of additional shares of the same class of Disqualified Capital Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Capital Stock for purposes of this Section 4.09; (d) in connection with the Parent, the Company or a Restricted Subsidiary of Parent's entry into an instrument containing a binding commitment in respect of any revolving Indebtedness, the Company may elect, pursuant to an Officer's Certificate delivered to the applicable Trustee, to treat all or any portion of such commitment (any such amount elected until revoked as described below, an "*Elected Amount*") under any Indebtedness which is to be incurred (or any commitment in respect thereof) or secured by a Lien, as the case may be, as being incurred as of such election date, and (i) any subsequent incurrence of Indebtedness under such commitment (so long as the total amount under such Indebtedness does not exceed the Elected Amount) shall not be deemed, for purposes of any calculation under the applicable Indenture, to be an incurrence of additional Indebtedness or an additional Lien at such subsequent time, (ii) the Company may revoke an election of an Elected Amount at any time pursuant to an Officer's Certificate delivered to the Trustee and (iii) for purposes of all subsequent calculations of the Consolidated Debt Ratio and the Consolidated Secured Debt Ratio, the Elected Amount (if any) shall be deemed to be outstanding, whether or not such amount is actually outstanding, so long as the applicable commitment remains outstanding; and (e) the principal amount of Indebtedness outstanding under any clause of this covenant shall be determined after giving effect to the application of proceeds of any such Indebtedness to refinance any such other Indebtedness.

If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of Parent as of such date (and, if such Indebtedness is not permitted to be incurred as of such date under this Section 4.09, the Company shall be in default of this Section 4.09).

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt, and the amount of such debt will not be deemed to change as a result of fluctuations in currency exchange rates after such date of incurrence or commitment; *provided*, that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (a) the principal amount of such Indebtedness being refinanced plus (b) the aggregate amount of fees, underwriting discounts, accrued and unpaid interest, premiums (including, without limitation, tender premiums) and other costs and expenses (including, without limitation, original issue discount, upfront fees or similar fees) incurred in connection with such refinancing.

Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that Parent or a Restricted Subsidiary may incur pursuant to this Section 4.09 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

(c) The Company and Parent 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, Parent 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 Note 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, Parent or such Guarantor, as the case may be. For purposes of the foregoing and all other purposes under this Indenture, no Indebtedness will be deemed to be subordinated or junior in right of payment to any other Indebtedness of the Company, Parent 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 or similar arrangements giving one or more of such holders priority over the other holders in the collateral securing such Indebtedness.

Section 4.10 *Asset Sales.*

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

(1) Parent or the applicable Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at or prior to 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 or Parent's Board of Directors);

(2) at least 75% of the consideration received by Parent or the Restricted Subsidiary, as the case may be, from such Asset Sale shall be in the form of cash or Cash Equivalents and shall be received at or prior to the time of such disposition. For purposes of this clause (2), each of the following shall be deemed to be cash:

(A) (i) any liabilities, as shown on the most recent consolidated balance sheet (or in the notes thereto) of Parent or any Restricted Subsidiary (or would be shown on such consolidated balance sheet (or in the notes thereto) as of the date of such Asset Sale), other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Note Guarantee or (ii) any Guarantees of Indebtedness of Persons other than Parent or any Restricted Subsidiary, in each case, that are assumed by the person acquiring such assets to the extent that Parent and its Restricted Subsidiaries have no further liability with respect to such liabilities;

(B) any securities, notes or other obligations received by Parent or any such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within 180 days after receipt; and

(C) any Designated Non-Cash Consideration received by Parent or its Restricted Subsidiaries in such Asset Sale having an aggregate Fair Market Value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (C) that is at that time outstanding, in the aggregate, not to exceed the greater of \$25.0 million and 1.0% of Consolidated Total Assets at the time of receipt of such Designated Non-Cash Consideration, with the Fair Market Value of each item of Designated Non-Cash Consideration measured at the time received and without giving effect to subsequent changes in value;

(3) upon the consummation of an Asset Sale, Parent shall apply, or cause such Restricted Subsidiary to apply, the Net Cash Proceeds relating to such Asset Sale within 365 days of receipt thereof either:

(A) to (x) repay Indebtedness of Parent and its Restricted Subsidiaries under any Credit Facility and in the case of any such Indebtedness under any revolving credit facility effect a permanent reduction in the availability under such revolving credit facility (*provided, however*, that, if there shall not be any term loan indebtedness outstanding under any Credit Facility, in the case of such Indebtedness under any revolving credit facility such prepayment shall not be required to effect a permanent reduction in the availability under such revolving credit facility) or (y) repay or reduce Indebtedness of a Restricted Subsidiary of Parent that does not guarantee the Notes;

(B) to make an investment in, including in properties or assets that replace the properties and assets that were the subject of such Asset Sale or in properties or assets (including Capital Stock) that will be used or are useful, in the good faith judgment of the Board of Directors of the Company or Parent, in, the business of Parent and its Restricted Subsidiaries as they are engaged in on the Issue Date or the Escrow Release Date or in businesses reasonably related, incidental, synergistic, ancillary or complementary thereto (“*Replacement Assets*”); *provided* that, in the case of this clause (B), a binding commitment within 365 days of the date of the receipt of such Net Cash Proceeds shall be treated as a permanent application of the Net Cash Proceeds from the date of such commitment so long as Parent or such other Restricted Subsidiary enters into such commitment with the good faith expectation that such Net Cash Proceeds will be applied to satisfy such commitment within 180 days of such commitment (an “*Acceptable Commitment*”) and, in the event that any Acceptable Commitment is later cancelled or terminated for any reason before such Net Cash Proceeds are applied, Parent or such other Restricted Subsidiary enters into another Acceptable Commitment (a “*Second Commitment*”) within 180 days of such cancellation or termination; *provided further* that if any Second Commitment is later cancelled or terminated for any reason before such Net Cash Proceeds are applied, then such Net Cash Proceeds shall constitute part of the Net Proceeds Offer Amount if not otherwise applied as provided above within 365 days of the receipt of such Net Cash Proceeds; or

(C) a combination of prepayment and investment permitted by the foregoing clauses (3)(A) and (3)(B).

(b) Pending the final application of any such Net Cash Proceeds, Parent or such Restricted Subsidiary may temporarily reduce Indebtedness under a revolving credit facility, if any, or otherwise invest such Net Cash Proceeds in any manner not prohibited by this Indenture. Subject to Section 4.10(a), if any Net Cash Proceeds have not been applied as provided in clauses (3)(A), (3)(B) and (3)(C) of Section 4.10(a) within the applicable time period or the last provision of this sentence, such Net Cash Proceeds shall be applied by the Company, Parent or such Restricted Subsidiary to make an offer to purchase (the “*Net Proceeds Offer*”) to all Holders and, to the extent required by the terms of any Pari Passu Indebtedness, to holders of such Pari Passu Indebtedness, on a date (the “*Net Proceeds Offer Payment Date*”) not less than 30 nor more than 60 days following the date that triggered the Company’s obligation to make such Net Proceeds Offer, from all Holders (and holders of any such Pari Passu Indebtedness) on a pro rata basis based upon the respective outstanding aggregate principal amounts (or accreted value, as applicable) of the Notes and Pari Passu Indebtedness on the date the Net Proceeds Offer is made, the maximum amount (or accreted value, as applicable) of Notes and Pari Passu Indebtedness that may be purchased with the Net Proceeds Offer Amount at a price equal to 100% of the principal amount (or accreted value, as applicable) of the Notes and Pari Passu Indebtedness to be purchased, plus accrued and unpaid interest thereon, if any, to the date of purchase; *provided, however*, that if at any time any non-cash consideration received by Parent or any Restricted Subsidiary of Parent, 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 Section 4.10.

(c) The Company may make a Net Proceeds Offer at any time and from time to time in advance of its obligation to make a Net Proceeds Offer pursuant to Section 4.10(b). The Company may also defer any Net Proceeds Offer until there is an aggregate unutilized Net Proceeds Offer Amount equal to or in excess of \$50.0 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 \$50.0 million, shall be applied as required pursuant to this paragraph). Upon completion of each Net Proceeds Offer, the amount of unutilized Net Proceeds Offer Amount will be reset at zero.

(d) [Reserved.]

(e) Notwithstanding Sections 4.10(a) and 4.10(b), Parent and its Restricted Subsidiaries will be permitted to consummate an Asset Sale without complying with such sections to the extent that:

(1) at least 75% of the consideration for such Asset Sale constitutes Replacement Assets; and

(2) such Asset Sale is for Fair Market Value; *provided* that any consideration not constituting Replacement Assets received by Parent or any of its Restricted Subsidiaries in connection with any Asset Sale permitted to be consummated under this Section 4.10(e) shall constitute Net Cash Proceeds subject to the provisions of Sections 4.10(a) and 4.10(b).

(f) Each Net Proceeds Offer will be sent to the record Holders as shown on the register of Holders within 25 days following the date triggering the Company obligation to make such Net Proceeds Offer, with a copy to the Trustee, and shall comply with the procedures set forth in this Indenture. Upon receiving notice of the Net Proceeds Offer, Holders may elect to tender their Notes in whole or in part in integral multiples of C\$2,000 in exchange for cash. To the extent Holders properly tender Notes in an amount exceeding the pro rata portion of the Net Proceeds Offer Amount applicable to the Notes, the tendered Notes will be purchased on a pro rata basis (based on amounts tendered) subject to the minimum denominations of the Notes.

(g) 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 this Section 4.10, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.10 by virtue thereof.

Section 4.11 *Transactions with Affiliates.*

(a) Parent shall not, and shall 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 involving aggregate value in excess of \$10.0 million (each an "*Affiliate Transaction*"), other than:

(1) Affiliate Transactions permitted under Section 4.11(b); and

(2) Affiliate Transactions on terms, taken as a whole, that are no less favorable to Parent or the applicable Restricted Subsidiary 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.

If any such Affiliate Transaction (or a series of related Affiliate Transactions which are similar or part of a common plan) (x) involves aggregate payments or other property with a fair market value in excess of \$25.0 million, Parent or such Restricted Subsidiary, as the case may be, shall file with the Trustee an Officer's Certificate certifying that such Affiliate Transaction complies with this covenant and (y) involves aggregate payments or other property with a fair market value in excess of \$50.0 million, Parent or such Restricted Subsidiary, as the case may be, shall file with the Trustee a resolution of the Board of Directors of Parent or such Restricted Subsidiary, as the case may be, set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with this Section 4.11 and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors of the Company or such Restricted Subsidiary.

(b) The restrictions set forth in Section 4.11(a) shall not apply to:

(1) indemnification, employment, consultancy, advisory, services or separation agreements or arrangements and benefit plans or arrangements and any transactions contemplated by any of the foregoing, including the payment of compensation, fees and reimbursement of expenses to, and customary indemnities (including under customary insurance policies) and employee benefit and pension expenses, in each case, in respect of or provided on behalf of, current or former directors, officers, consultants or employees of Parent or any Restricted Subsidiary (whether directly or indirectly and including through any Person owned or controlled by any of such directors, officers or employees) as determined in good faith by Parent's or the Company's Board of Directors or senior management;

(2) transactions exclusively between or among Parent and any of its Restricted Subsidiaries or exclusively between or among such Restricted Subsidiaries (including any entity that becomes a Restricted Subsidiary of Parent as a result of such transaction); *provided* such transactions are not otherwise prohibited by this Indenture;

(3) (A) any agreement or arrangement as in effect as of the Issue Date (or transactions pursuant thereto), (B) any other agreements or arrangements pursuant to or in connection with the Transactions or (C) any amendment, modification or supplement to the agreements referenced in clause (A) or (B) above or any replacement thereof, so long as the terms of such agreement or arrangement, as so amended, modified, supplemented or replaced, are not more disadvantageous to the Holders when taken as a whole in any material respect compared to the applicable agreements or arrangements as in effect on the Issue Date or as described in the Offering Circular, as applicable, as determined in good faith by Parent or the Company;

(4) Restricted Payments (or transfers or issuances that would constitute Restricted Payments but for the exclusions from the definition thereof) or Permitted Investments not prohibited by this Indenture;

(5) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, in each case in the ordinary course of business or consistent with past practice, which are fair to Parent or the applicable Restricted Subsidiary in the reasonable determination of the Board of Directors or the senior management of Parent or the applicable Restricted Subsidiary, or are on terms no less favorable than those that could reasonably have been obtained at such time from an unaffiliated party;

(6) issuances or sales of Capital Stock (other than Disqualified Capital Stock) of Parent or options, warrants or other rights to acquire such Capital Stock and the granting of registration and other customary rights in connection therewith or any contribution to capital of Parent or any Restricted Subsidiary;

(7) transactions in which Parent or any Restricted Subsidiary, as the case may be, delivers to the Trustee a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or meets the requirements of Section 4.11(a)(2);

(8) payments to or the receipt of payments from, and the entry into of and the consummation of transactions with, joint ventures (to the extent any such joint venture is only an Affiliate as a result of Investments by Parent and the Restricted Subsidiaries in such joint venture) in the ordinary course of business to the extent otherwise permitted by this Indenture, so long as such payments or transactions are on terms that are not materially less favorable to Parent or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction;

(9) the Transactions, in each case as disclosed in the Offering Circular, and the payment of all fees, expenses, bonuses and awards related thereto;

(10) transactions with a Person that is an Affiliate of Parent solely because Parent or one of its Restricted Subsidiaries owns an equity interest in such Person;

(11) the pledge of Equity Interests of Unrestricted Subsidiaries or joint ventures to support the Indebtedness thereof;

(12) transactions between Parent or any Restricted Subsidiary of Parent and any Person, a director of which is also a director of Parent or the Company; *provided*, that such director abstains from voting as a director of Parent or the Company on any matter involving such other Person;

(13) transactions with a Person who is not an Affiliate immediately before the consummation of such transaction that becomes an Affiliate as a result of such transaction;

(14) any incurrence of Indebtedness permitted by Section 4.09;

(15) transactions undertaken for the purpose of improving the consolidated tax efficiency of Parent or its Subsidiaries as determined in good faith by Parent; and

(16) Permitted Intercompany Activities and related transactions.

Section 4.12 *Liens.*

(a) Parent will not, and will not cause or permit any Guarantor to, directly or indirectly, create, incur or assume any Liens of any kind against or upon any property or assets of Parent or any such Guarantor, whether owned on the Issue Date or acquired after the Issue Date, or any proceeds therefrom, or assign or otherwise convey any right to receive income or profits therefrom (other than Permitted Liens) (such Lien, the “*Initial Lien*”), securing Indebtedness of Parent or a Guarantor, unless:

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

(2) in all other cases, the Notes or Note Guarantees, as the case may be, are equally and ratably secured.

(b) Any Lien created for the benefit of the Holders of the Notes pursuant to Section 4.12(a) shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Initial Lien.

(c) For purposes of determining compliance with this Section 4.12, (A) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens described in clauses (1) through (39) of the definition of “Permitted Liens” or pursuant to Section 4.12(a) but may be permitted in part under any combination thereof and (B) in the event that a Lien securing an item of Indebtedness meets the criteria of one or more of the categories of permitted Liens described in clauses (1) through (39) of the definition of “Permitted Liens” or pursuant to Section 4.12(a), the Company shall, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant and will only be required to include the amount and type of such Lien or such item of Indebtedness secured by such Lien in one of the clauses of the definition of “Permitted Liens” and such Lien securing such item of Indebtedness will be treated as being incurred or existing pursuant to only one of such clauses or pursuant to Section 4.12(a).

With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The “*Increased Amount*” of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms, the payment of dividends on preferred stock in the form of additional shares of preferred stock of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness described in subclause (7) of the definition of “Indebtedness.”

Section 4.13 *[Reserved]*.

Section 4.14 *Corporate Existence*.

Subject to Article 5 hereof, the Company shall do or cause to be done all things reasonably necessary to preserve and keep in full force and effect:

- (1) its corporate existence in accordance with its organizational documents (as the same may be amended from time to time); and
- (2) the rights (charter and statutory) of the Company;

provided, however, that the Company shall not be required to preserve any such right if the Board of Directors of the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole.

Section 4.15 *Offer to Repurchase Upon Change of Control.*

(a) Upon the occurrence of a Change of Control, the Company will offer to purchase all or a portion of such Holder's Notes pursuant to the offer described below (a "*Change of Control Offer*"), at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest thereon, if any, to, but excluding, the date of purchase.

Within 30 days following the date upon which the Change of Control occurred, the Company shall send a written 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:

- (1) that the Change of Control Offer is being made pursuant to this Section 4.15 and that all Notes tendered will be accepted for payment;
- (2) the purchase price and the purchase date, which (unless otherwise required by law) shall be no earlier than 30 days and no later than 60 days from the date such notice is sent (the "*Change of Control Payment Date*");
- (3) that any Note not tendered will continue to accrue interest in accordance with this Indenture;
- (4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest after the Change of Control Payment Date;
- (5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, with the form entitled "Option of Holder to Elect Purchase" attached to the Notes completed, or transfer by book-entry transfer, to the Paying Agent at the address specified in the notice (or, if a Global Note, by following the Applicable Procedures) prior to the close of business on the third Business Day preceding the Change of Control Payment Date;
- (6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have the Notes purchased; and
- (7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to C\$2,000 in principal amount or an integral multiple of C\$1,000 in excess thereof.

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 the Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4.15, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.15 by virtue of such compliance.

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

- (1) accept for payment all Notes or portions of Notes properly tendered and not properly withdrawn pursuant to the Change of Control Offer;
- (2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered and not properly withdrawn; and
- (3) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased.

The Paying Agent will promptly mail (but in any case not later than five days after the Change of Control Payment Date) to each Holder properly tendered the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each new Note shall be in a principal amount of C\$2,000 or an integral multiple of C\$1,000 in excess thereof. The Company will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(c) Notwithstanding anything to the contrary in this Section 4.15, the Company will not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.15 and purchases all Notes properly tendered and not withdrawn under such Change of Control Offer, or (2) a notice of redemption of all outstanding Notes has been given pursuant to Section 3.07 hereof, unless and until there is a default in the payment of the redemption price on the applicable redemption date or the redemption is not consummated due to the failure of a condition precedent contained in the applicable redemption notice to be satisfied.

(d) Notwithstanding anything to the contrary contained herein, a Change of Control Offer may be made in advance of a Change of Control, conditioned upon the consummation of such Change of Control, if a definitive agreement is in place for the Change of Control at the time the Change of Control Offer is made. In such a case, the related notice shall describe such condition, and if applicable, shall state that, in the Company's discretion, the purchase date may be delayed until such time as such condition shall be satisfied, or such purchase may not occur and such notice may be rescinded in the event that such condition shall not have been satisfied by the purchase date, or by the purchase date as so delayed.

Section 4.16 *Additional Amounts.*

(a) All payments made by or on behalf of the Company or any Guarantor (each a "Payor") under or with respect to the Notes or any Note Guarantee will be made free and clear of and without withholding or deduction for or on account of any Taxes, unless such Payor is required to withhold or deduct an amount for, or on account of, Taxes by law. If a Payor is so required to withhold or deduct any amount for or on account of Taxes imposed or levied by or on behalf of any jurisdiction in which such Payor is incorporated, organized, resident for tax purposes or carrying on a business for tax purposes or from or through which such Payor or its respective agents makes any payment on the Notes or any Note Guarantee or any department or political subdivision thereof (each, a "*Relevant Taxing Jurisdiction*") from any payment made under or with respect to the Notes or any Note Guarantee, including, without limitation, payments of principal, redemption price, purchase price, interest or premium, such Payor, subject to the exceptions stated below, will pay such additional amounts ("*Additional Amounts*") as may be necessary such that the net amount received in respect of such payment by each Holder or Beneficial Holder after such withholding or deduction (including withholding or deduction attributable to Additional Amounts payable hereunder) will not be less than the amount the Holder or Beneficial Holder, as the case may be, would have received if such Taxes had not been required to be so withheld or deducted.

(b) A Payor will not, however, pay Additional Amounts to a Holder or Beneficial Holder with respect to:

(1) Canadian withholding Taxes imposed on any payment on or in respect of the Notes or any Note Guarantee to a Holder or Beneficial Holder by reason of such Holder or Beneficial Holder being a person with whom the Payor does not deal at arm's length for the purposes of the Tax Act at the time of making such payment (other than where the non-arm's length relationship arises as a result of the exercise or enforcement of rights under any Notes or any Note Guarantee);

(2) any Canadian withholding Taxes imposed on a payment or deemed payment on the Notes or Note Guarantee to a Holder or Beneficial Holder by reason of such Holder or Beneficial Holder being a "specified shareholder" of the Company (within the meaning of subsection 18(5) of the Tax Act) at the time of payment or deemed payment, or by reason of such Holder or Beneficial Holder not dealing at arm's length for the purposes of the Tax Act with a "specified shareholder" of the Company at the time of payment or deemed payment (other than where the Holder or Beneficial Holder is a "specified shareholder," or does not deal at arm's length with a "specified shareholder," solely as a result of the exercise or enforcement of rights under any Notes or any Note Guarantee);

(3) Taxes giving rise to such Additional Amounts that would not have been imposed, withheld or deducted but for the existence of any present or former connection between such Holder or Beneficial Holder (or between a fiduciary, settlor, beneficiary, member or shareholder or other equity owner of, or person in possession of power over, such Holder or Beneficial Holder, if such Holder or Beneficial Holder is an estate, a trust, a limited liability company, a partnership, a corporation or other entity) and the Relevant Taxing Jurisdiction in which such Taxes are imposed (including, without limitation, being or having been, or treated as, a citizen, domiciliary, resident or national of, or carrying on a business or maintaining a permanent establishment in, the Relevant Taxing Jurisdiction but not including any connection resulting solely from the acquisition, ownership, holding or disposition of Notes, the receipt of payments thereunder and/or the exercise or enforcement of rights under any Notes or any Note Guarantee);

(4) Taxes giving rise to such Additional Amounts that would not have been imposed, withheld or deducted but for the failure of such Holder or Beneficial Holder, to the extent such Holder or Beneficial Holder is legally eligible to do so, to comply with any written request, made to that Holder or Beneficial Holder in writing at least 45 calendar days before any such withholding or deduction would be payable, by the Payor to satisfy any certification, identification, information, documentation or other reporting requirements concerning such Holder's or Beneficial Holder's nationality, residence, identity or connection with the Relevant Taxing Jurisdiction, which are required by applicable law, treaty, regulation or administrative practice of a Relevant Taxing Jurisdiction as a precondition to exemption from, or reduction in the rate of deduction or withholding of, such Taxes imposed by the Relevant Taxing Jurisdiction (including, without limitation, a certification that the Holder or Beneficial Holder is not resident in the Relevant Taxing Jurisdiction);

(5) any estate, inheritance, gift, value added, goods and services, harmonized sales, sales, transfer, capital gains, personal property or any similar Taxes or assessment or any excise tax imposed on the transfer of the Notes;

(6) any Taxes that are imposed, withheld or deducted with respect to any payment on a Note to any Holder who is a fiduciary, partnership, limited liability company or other fiscally transparent entity or person other than the sole Beneficial Owner of such payment and to the extent that no Additional Amounts would have been payable had the Beneficial Owner of the applicable Note been the holder of such Note;

(7) Taxes imposed on, or deducted or withheld from, payments in respect of the Notes if such payments could have been made without such imposition, deduction or withholding of such Taxes had such Notes been presented for payment (where presentation is required) within 30 calendar days after the date on which such payments or such Notes became due and payable or the date on which payment thereof is duly provided for, whichever is later (except to the extent such Holder or Beneficial Holder would have been entitled to such Additional Amounts had such Notes been presented on the last day of such 30-calendar day period);

(8) Taxes giving rise to such Additional Amounts that would not have been imposed but for the presentation of any note for payment by or on behalf of a Holder who would have been able to avoid such withholding or deduction by presenting the applicable note to another paying agent;

(9) any Tax which is payable otherwise than by deduction or withholding from payments made under or with respect to the Notes or any Note Guarantee;

(10) any Taxes imposed, withheld or deducted under FATCA;

(11) any Taxes which would not have been imposed, withheld or deducted but for such Holder's or Beneficial Holder's present or former status as a personal holding company, foreign personal holding company, controlled foreign corporation, passive foreign investment company or foreign tax exempt organization with respect to the Relevant Taxing Jurisdiction or as a corporation that accumulates earnings to avoid income tax in the Relevant Taxing Jurisdiction; or

(12) any combination of the foregoing clauses (1) through (11).

(c) At least 30 calendar days prior to each date on which any payment under or with respect to the Notes or any Note Guarantee is due and payable, if a Payor will be obligated to pay Additional Amounts with respect to such payment (unless such obligation to pay Additional Amounts arises after the 35th day prior to the date on which such payment is due and payable, in which case it will be promptly thereafter), the Payor will deliver to the Trustee an Officer's Certificate stating that such Additional Amounts will be payable and the amounts so payable and will set forth such other information necessary to enable the Trustee to pay such Additional Amounts to Holders and/or Beneficial Holders on the payment date. The Trustee may rely conclusively on such Officer's Certificate as conclusive proof that such payments are necessary. The Payor will provide the Trustee with documentation reasonably satisfactory to the Trustee evidencing the payment of Additional Amounts.

(d) The Payors will indemnify and hold harmless the Holders and Beneficial Holders of the Notes for the amount of any Taxes under Regulation 803 of the Tax Act, or any similar or successor provision, (other than Taxes described in Sections 4.16(b)(1) through (8) or (10) through (11) or Taxes arising by reason of a transfer of a note to a person resident in Canada with whom the transferor does not deal at arm's length for the purposes of the Tax Act) levied or imposed on and paid by such a Holder or Beneficial Holder as a result of payments made under or with respect to the Notes or any Note Guarantee.

(e) In addition, the Payor will pay and indemnify the Holder or Beneficial Holder for any present or future stamp, issue, registration, transfer, court, documentation, excise, property or other similar Taxes, charges and duties, including any interest, penalties and any similar liabilities with respect thereto, imposed by any Relevant Taxing Jurisdiction (and, in the case of enforcement, any jurisdiction) at any time in respect of the execution, issuance, registration, delivery or enforcement of the Notes, any Note Guarantee or any other document or instrument referred to thereunder, or the receipt of any payments with respect thereto (limited, solely in the case of Taxes, charges or duties attributable to the receipt of any payments with respect thereto, to any such Taxes, charges or duties imposed in a Relevant Taxing Jurisdiction that are not excluded under Sections 4.16(b)(1) through (8) or (10) through (11) or any combination thereof).

(f) The Payor will make all withholdings and deductions required by law and will remit the full amount deducted or withheld to the applicable Taxing Authority in accordance with applicable law. Upon request, the Payor will provide to the Trustee an official receipt or, if official receipts are not obtainable, other documentation reasonably satisfactory to the Trustee evidencing the payment of any Taxes so deducted or withheld. Upon request, the Trustee will make available to Holders copies of those receipts or other documentation, as the case may be. The Trustee will not be responsible for ensuring that the withholding and deduction of any amount has been properly made. Except as specifically provided above, no Payor shall be required to make a payment with respect to any Tax duty, assessment or other governmental charge imposed by any government or any political subdivision or Taxing Authority of or in any government or political subdivision.

(g) The obligations described under this Section 4.16 will survive any termination, defeasance or discharge of this Indenture, any transfer by a Holder or Beneficial Holder of its Notes, and will apply (reflecting the applicable necessary changes) to any successor Person to any Payor and to any jurisdiction in which such successor is incorporated, organized or is otherwise resident or doing business for tax purposes or any jurisdiction from or through which payment is made by such successor or its respective agents or any department or political subdivision thereof.

Whenever this Indenture refers to, in any context, the payment of principal, premium, if any, interest, redemption price, purchase price or any other amount payable under or with respect to any Note or Note Guarantee, such reference shall include the payment of Additional Amounts or indemnification payments as described hereunder, if applicable.

Section 4.17 *Limited Condition Transactions; Financial Calculations.*

When calculating the availability under any threshold based on a dollar amount, percentage of Consolidated Total Assets or other financial measure (a “basket”) or ratio under this Indenture, in each case, in connection with a Limited Condition Transaction, the date of determination of such basket or ratio and of any requirement that there be no Default or Event of Default may, at the option of Parent, be the date the definitive agreement(s) for such Limited Condition Transaction is entered into. Any such ratio or basket shall be calculated on a pro forma basis, including with such adjustments as are appropriate and consistent with the pro forma adjustment provisions set forth in the definitions of Consolidated Fixed Charge Coverage Ratio or Consolidated Total Assets, after giving effect to such Limited Condition Transaction and other transactions related thereto (including any incurrence or issuance of Indebtedness or preferred stock and the use of proceeds thereof) as if they had been consummated at the beginning of the applicable period (in the case of Consolidated EBITDA), as of the date of determination and at the end of the applicable period (in the case of Consolidated Total Assets) for purposes of determining the ability to consummate any such Limited Condition Transaction and any such related transactions; provided that if Parent elects to make such determination as of the date of such definitive agreement(s), then (i) if any of such ratios are no longer complied with or baskets are exceeded as a result of fluctuations in such ratio or basket (including due to fluctuations in Consolidated EBITDA, Consolidated Net Income or Consolidated Total Assets of Parent or the target company) subsequent to such date of determination and at or prior to the consummation of the relevant Limited Condition Transaction and any such related transactions, such ratios or baskets will not be deemed to have been no longer complied with or exceeded as a result of such fluctuations solely for purposes of determining whether the Limited Condition Transaction and such related transactions are permitted under this Indenture, (ii) such ratios or baskets shall not be tested at the time of consummation of such Limited Condition Transaction and such related transactions, and (iii) during the period on and following the date of any such election by Parent with respect to a given Limited Condition Transaction and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the date that the definitive agreement(s) for such Limited Condition Transaction is terminated or expires without consummation of such Limited Condition Transaction, for purposes of determining whether any unrelated subsequent transaction (including, without limitation, the incurrence of Indebtedness or Liens, the making of Restricted Payments, the making of any Investment, mergers, the conveyance, lease or other transfer of all or substantially all of the assets of Parent, the prepayment, redemption, purchase, defeasance or other satisfaction of Indebtedness, or the designation of an Unrestricted Subsidiary) is permitted under this Indenture, any applicable ratio or basket shall be required to be satisfied (i) on a pro forma basis as set forth above, assuming such Limited Condition Transaction and other related transactions (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated and (ii) assuming such Limited Condition Transaction and other related transactions (including any incurrence of Indebtedness and the use of proceeds thereof) have not been consummated.

Section 4.18 *Additional Subsidiary Note Guarantees.*

If any existing or future Restricted Subsidiary of Parent shall Guarantee any Indebtedness of Parent, the Company or a Guarantor under (i) a Credit Facility or (ii) Capital Markets Indebtedness in an aggregate principal amount with respect to clauses (i) and (ii) exceeding \$100.0 million, then Parent and the Company shall, within 30 days of such event, cause such Restricted Subsidiary to:

(1) execute and deliver to the Trustee a supplemental indenture in form reasonably satisfactory to the Trustee pursuant to which such Restricted Subsidiary shall unconditionally guarantee all of the Company's obligations under the Notes and this Indenture on the terms set forth in this Indenture; and

(2) deliver to the Trustee an Officer's Certificate and an Opinion of Counsel that contains the statements set forth in Section 12.05 and that such supplemental indenture has been duly authorized, executed and delivered by such Restricted Subsidiary and, only with respect to such Opinion of Counsel, that such supplemental indenture constitutes a valid and binding obligation of such Restricted Subsidiary.

Thereafter, such Restricted Subsidiary shall be a Guarantor for all purposes of this Indenture until such Restricted Subsidiary is released from its Note Guarantee as provided in this Indenture.

The form of such supplemental indenture is attached as Exhibit E hereto.

Section 4.19 *Designation of Restricted and Unrestricted Subsidiaries.*

Parent may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by Parent and its Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under Section 4.07 or under one or more clauses of the definition of "Permitted Investments," as determined by Parent. The designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

Any designation of a Subsidiary of Parent as an Unrestricted Subsidiary will be evidenced to the Trustee by an Officer's Certificate certifying that such designation complies with the preceding conditions and was permitted by Section 4.07. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of Parent as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09, the Company will be in default of such covenant.

Parent may at any time redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary of Parent; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of Parent of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted under Section 4.09, calculated on a pro forma basis as if such designation had occurred at the beginning of the applicable reference period; and (2) no Default or Event of Default would be in existence following such designation. Any such designation by Parent shall be evidenced to the Trustee by an Officer's Certificate certifying that such designation complies with the preceding conditions.

Section 4.20 *Changes in Covenants When Notes Rated Investment Grade.*

Beginning on the date following the Issue Date that:

- (1) the Notes have an Investment Grade Rating; and
- (2) no Default or Event of Default shall have occurred and be continuing,

and ending on the date (the "*Reversion Date*") that either Rating Agency ceases to have an Investment Grade Rating on the Notes (such period of time, the "*Suspension Period*"), the following Sections of this Indenture will no longer be applicable to the Notes:

- (1) Section 4.09 (Incurrence of Additional Indebtedness);
- (2) Section 4.07 (Restricted Payments);
- (3) Section 4.10 (Asset Sales);
- (4) Section 4.08 (Dividend and Other Payment Restrictions Affecting Guarantors);
- (5) Section 4.11 (Limitations on Transactions with Affiliates); and
- (6) Section 5.01(a)(2) (Merger, Consolidation and Sale of Assets).

During a Suspension Period, the Company's or Parent's Board of Directors may not designate any of Parent's Subsidiaries as Unrestricted Subsidiaries.

On the Reversion Date, all Indebtedness incurred during the Suspension Period will be classified to have been incurred pursuant to and permitted under Section 4.09(a) or one of the clauses set forth in Section 4.09(b) (to the extent such Indebtedness would be permitted to be incurred thereunder as of the Reversion Date and after giving effect to Indebtedness incurred prior to the Suspension Period and outstanding on the Reversion Date). To the extent any Indebtedness would not be permitted to be incurred pursuant to Section 4.09(a) or any of the clauses set forth in Section 4.09(b), such Indebtedness will be deemed to have been outstanding on the Issue Date, so that it is classified as Permitted Indebtedness under Section 4.09(b)(3) and permitted to be refinanced under Section 4.09(b)(16).

Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 4.07 will be made as though Section 4.07 had been in effect during the entire period of time after the Issue Date and prior to, but not during, the Suspension Period and, accordingly, all Restricted Payments made during the Suspension Period will not reduce the amount available to be made as Restricted Payments under Section 4.07(a)(iii). In addition, for purposes of Section 4.11, all Affiliate Transactions entered into by Parent or any of its Restricted Subsidiaries with an Affiliate of Parent during the applicable Suspension Period prior to such Reversion Date will be deemed to have been entered into on or prior to the Issue Date, and for purposes of Section 4.08, all contracts entered into during the applicable Suspension Period prior to such Reversion Date that contain any of the restrictions contemplated by such covenant will be deemed to have been existing on the Issue Date. For purposes of Section 4.10, on the Reversion Date, the unutilized Net Cash Proceeds amount will be reset to zero.

Notwithstanding the fact that covenants suspended during a Suspension Period may be reinstated, (1) no Default or Event of Default or breach of any kind will be deemed to have occurred, and none of Parent, the Company or any of Parent's Subsidiaries shall bear any liability for any actions taken or events occurring during the Suspension Period or any actions taken at any time pursuant to any contractual obligation arising during any Suspension Period, in each case as a result of a failure to comply with such covenants during the Suspension Period or at the time such covenants are reinstated and (2) following a Reversion Date, Parent, the Company and each of Parent's Restricted Subsidiaries will be permitted, without causing a Default or Event of Default, to honor, comply with or otherwise perform any contractual commitments or obligations arising during any Suspension Period and to consummate the transactions contemplated thereby.

The Company shall give the Trustee written notice of the start of any Suspension Period and in any event not later than five (5) Business Days after such Suspension Period has begun. The Company shall give the Trustee written notice of any occurrence of a Reversion Date not later than five (5) Business Days after such Reversion Date.

ARTICLE 5 SUCCESSORS

Section 5.01 *Merger, Consolidation and Sale of Assets.*

(a) Parent will not, in a single transaction or series of related transactions, amalgamate, 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 Parent to sell, assign, transfer, lease, convey or otherwise dispose of) all or substantially all of Parent's assets (determined on a consolidated basis for Parent and Parent's Restricted Subsidiaries), whether as an entirety or substantially as an entirety, to any Person unless:

(1) either:

(A) Parent shall be the surviving or continuing corporation; or

(B) the Person (if other than Parent) formed by such consolidation or into which Parent is amalgamated, merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of Parent and of Parent's Restricted Subsidiaries substantially as an entirety (the "*Surviving Entity*");

(i) shall be an entity organized or validly existing under the laws of Canada (or any province thereof), laws of the United States or any State thereof or the District of Columbia; and

(ii) shall expressly assume, by supplemental indenture (in form and substance satisfactory to the Trustee), executed and delivered to the Trustee, all obligations on the part of Parent to be performed or observed;

(2) immediately after giving effect to such transaction and the assumption contemplated by Section 5.01(a)(1)(B)(ii) (including giving effect to any Indebtedness and Acquired Indebtedness incurred or anticipated to be incurred in connection with or in respect of such transaction), Parent or such Surviving Entity, as the case may be, (a) would be able to incur at least \$1.00 of additional Indebtedness pursuant to the Section 4.09(a) or (b) the Consolidated Fixed Charge Coverage Ratio of Parent and its Restricted Subsidiaries would not be lower than it was immediately prior to such transaction;

(3) immediately before and immediately after giving effect to such transaction and the assumption contemplated by Section 5.01(a)(1)(B)(ii) above, if applicable (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; and

(4) Parent or the Surviving Entity shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such amalgamation, consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with the applicable provisions of this Indenture and that all conditions precedent in this Indenture relating to such transaction have been satisfied.

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 Parent (other than the Company), the Capital Stock of which constitutes all or substantially all of the properties and assets of Parent or the Company, shall be deemed to be the transfer of all or substantially all of the properties and assets of Parent or the Company.

Upon any amalgamation, consolidation, combination or merger or any transfer of all or substantially all of the assets of Parent or the Company in accordance with Section 5.01(a), in which Parent or the Company, as applicable, is not the continuing corporation, the successor Person formed by such consolidation or into which Parent or the Company is amalgamated or 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 this Indenture and the Notes with the same effect as if such surviving entity had been named as such and all financial information and reports required by this Indenture shall be provided by and for such surviving entity.

(b) The Company will not, in a single transaction or series of related transactions, amalgamate, consolidate or merge with or into any Person unless:

(1) either:

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

(B) the Surviving Entity formed by such consolidation or into which the Company is amalgamated or merged:

(i) shall be an entity organized or validly existing under the laws of Canada (or any province thereof), laws of the United States or any State thereof or the District of Columbia, the United Kingdom or any member state of the European Union; provided that in the case where the Surviving Entity is not a corporation, a co-obligor of the notes is a corporation shall be an entity organized or validly existing under the laws of Canada (or any province thereof), laws of the United States or any State thereof or the District of Columbia, the United Kingdom or any member state of the European Union; and

(ii) 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 premium, if any, and interest on all of the Notes and the performance of every covenant of the Notes and this Indenture on the part of the Company to be performed or observed; and

(iii) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (a)(1)(B)(ii) above, if applicable (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.

(2) immediately after giving effect to such transaction and the assumption contemplated by Section 5.01(a)(1)(B)(ii) (including giving effect to any Indebtedness and Acquired Indebtedness incurred or anticipated to be incurred in connection with or in respect of such transaction), Parent or such Surviving Entity, as the case may be, (a) would be able to incur at least \$1.00 of additional Indebtedness pursuant to the Section 4.09(a) or (b) the Consolidated Fixed Charge Coverage Ratio of Parent and its Restricted Subsidiaries would not be lower than it was immediately prior to such transaction;

(3) immediately before and immediately after giving effect to such transaction and the assumption contemplated by Section 5.01(a)(1)(B)(ii) above, if applicable (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; and

Clause (a) of the above covenant will not apply to any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Parent and the Restricted Subsidiaries (including the Company). Clause (b) of the above covenant will not apply to any merger or consolidation of the Company (x) with or into the Parent or one of its Restricted Subsidiaries for any purpose so long as the Surviving Entity becomes a primary obligor of the applicable series of notes or (y) with or into an Affiliate solely for the purpose of reorganizing the Company in another jurisdiction so long as the Surviving Entity becomes a primary obligor of the Notes; provided, however, if such Person is not a corporation, a co-obligor of the Notes is a corporation organized or existing under the laws of Canada (or any province thereof), laws of the United States or any State thereof or the District of Columbia, the United Kingdom or any member state of the European Union.

Section 5.02 *Successor Corporation Substituted.*

Upon any amalgamation, consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof, the successor Person formed by such consolidation or into or with which the Company is amalgamated, merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such amalgamation, consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, the provisions of this Indenture referring to the “Company” shall refer instead to the successor Person and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein and thereafter the predecessor Person shall be released and discharged of all obligations and covenants under this Indenture and the Notes; *provided, however*, that the predecessor Company shall not be relieved from the obligation to pay the principal of, premium on, if any, and interest, if any, on, the Notes except in the case of a sale of all of the Company’s assets in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof.

ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01 *Events of Default.*

(a) Each of the following is an “*Event of Default*”:

- (1) the failure to pay interest on any Notes when the same becomes due and payable and the default continues for a period of 30 days;
- (2) the failure to pay the principal on any Notes, when such principal becomes due and payable, at maturity, upon redemption or otherwise (including the failure to make a payment to purchase Notes tendered pursuant to a Change of Control Offer or a Net Proceeds Offer and the failure to make a payment upon a required redemption as described in Section 3.09) on the date specified for such payment in the applicable offer to purchase;
- (3) a default in the observance or performance of any other covenants or agreements which default continues for a period of 60 days after the Company receives written notice specifying the default (and demanding that such default be remedied) from the Trustee or the Holders of at least 25% of the outstanding principal amount of the Notes (except, in the case of a default with respect to Section 5.01, which will constitute an Event of Default with such notice requirement but without such passage of time requirement);
- (4) the failure to pay at final stated maturity (giving effect to any applicable grace periods and any extensions thereof) the principal amount of any Indebtedness of Parent or any Restricted Subsidiary of Parent (other than Indebtedness owing to Parent or any Restricted Subsidiary), including the USD Notes, or the acceleration of the final stated maturity of any such Indebtedness (which acceleration is not rescinded, annulled or otherwise cured within 20 days of receipt by Parent or such Restricted Subsidiary of notice of any such acceleration), including the USD Notes, if the aggregate principal amount of such Indebtedness, including the USD Notes, together with the principal amount of any other such Indebtedness in default for failure to pay principal at final stated maturity or which has been accelerated (in each case with respect to which the 20-day period described above has passed), aggregates \$100.0 million or more at any time;

(5) one or more final judgments in an aggregate amount of \$100.0 million or more (net of any amounts which are covered by enforceable insurance policies issued by solvent carriers, to the extent such coverage has not been denied) shall have been rendered against Parent or any of its Significant Subsidiaries and such judgments remain undischarged, unpaid or unstayed for a period of 60 days after such judgment or judgments become final and non-appealable;

(6) Parent or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of Parent that, taken together, would constitute a Significant Subsidiary, pursuant to or within the meaning of Bankruptcy Law:

(A) commences a voluntary case or proceeding,

(B) consents to the entry of an order for relief against it in an involuntary case or proceeding,

(C) consents to the appointment of a trustee, interim receiver, receiver, receiver and manager, liquidator, administrator, custodian, sequestrator, agent or other similar official of it or for all or substantially all of its property,

(D) makes a general assignment for the benefit of its creditors, or

(E) generally is not paying its debts as they become due;

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

(A) is for relief against Parent or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of Parent that, taken together, would constitute a Significant Subsidiary in an involuntary case or proceeding;

(B) appoints a custodian of Parent or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of Parent that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of Parent or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of Parent that, taken together, would constitute a Significant Subsidiary; or

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

and the order or decree remains unstayed and in effect for 60 consecutive days; or

(8) any Note Guarantee of a Significant Subsidiary ceases to be in full force and effect or any Note Guarantee of a Significant Subsidiary is declared to be null and void and unenforceable or any Note Guarantee of a Significant Subsidiary is found to be invalid or any Guarantor that is a Significant Subsidiary denies its liability under its Note Guarantee (other than by reason of release of a Guarantor in accordance with the terms of this Indenture).

(b) The Trustees shall not be charged with knowledge of any Default or Event of Default with respect to the Notes unless a written notice of such Default or Event of Default shall have been given to a Responsible Officer of the Trustee by Parent, the Company or any Holder, distinctly specifying the Default desired to be brought to the attention of the Trustees and in the absence of any such notice, the Trustees may for all purposes of this Indenture conclusively assume that no Default has been made in the observance or performance of any of the representations, covenants, agreements or conditions contained herein. Any such notice shall in no way limit any discretion herein given the Trustees to determine whether or not the Trustees shall take action with respect to any Default.

Section 6.02 *Acceleration.*

(a) If an Event of Default (other than an Event of Default specified in Section 6.01(a)(6) or 6.01(a)(7) with respect to Parent or the Company) shall occur and be continuing, the Trustee or the Holders of at least 25% in principal amount of outstanding Notes may declare the principal of and accrued and unpaid interest on all the Notes to be due and payable by notice in writing to the Company and the Trustee specifying the applicable Event of Default and that it is a “notice of acceleration”, and the same shall become immediately due and payable.

(b) If an Event of Default specified in Section 6.01(a)(6) or 6.01(a)(7) with respect to Parent or the Company occurs and is continuing, then all unpaid principal of, and premium, if any, plus accrued and unpaid interest on all of the outstanding Notes shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

(c) At any time after a declaration of acceleration with respect to the Notes as described in Section 6.02(a) or 6.02(b), the Holders of a majority in aggregate principal amount of the Notes then outstanding may rescind and cancel such declaration and its consequences:

- (1) if the rescission would not conflict with any judgment or decree;
- (2) if all existing Events of Default have been cured or waived except nonpayment of principal or interest that has become due solely because of the acceleration;
- (3) to the extent the payment of such interest is lawful, interest on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration, has been paid;
- (4) if the Company has paid the Trustee compensation and reimbursed the Trustee for its expenses, disbursements and advances; and
- (5) in the event of the cure or waiver of an Event of Default of the type described in Section 6.01(a)(6) or 6.01(a)(7), the Trustee shall have received an Officer’s Certificate and an Opinion of Counsel that such Event of Default has been cured or waived.

No such rescission shall affect any subsequent Default or impair any right consequent thereto.

(d) In the event of any Event of Default specified in Section 6.01(a)(4), such Event of Default and all consequences thereof (excluding, however, any resulting payment default) will be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders of the notes, if within 20 days after such Event of Default arose Parent deliver an Officer’s Certificate to the Trustee stating that (x) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged or (y) the requisite number of holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default or (z) the default that is the basis for such Event of Default has been cured, it being understood that in no event shall an acceleration of the principal amount of the notes as described above be annulled, waived or rescinded upon the happening of any such events.

(e) Notwithstanding anything herein to the contrary, to the extent any information is not provided within the time periods specified in Section 4.03 and such information is subsequently provided within 30 days following such time periods, Parent will be deemed to have satisfied its obligations with respect thereto at such time and any Default with respect thereto shall be deemed to have been cured.

Section 6.03 *Other Remedies.*

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, premium on, if any, or interest, if any, on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 *Waiver of Past Defaults.*

The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may, on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of principal of, premium on, if any, or interest, if any, on, the Notes (including in connection with an offer to purchase); *provided, however*, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 *Control by Majority.*

Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustees or exercising any trust or power conferred on them. However, the Trustees may refuse to follow any direction that conflicts with law or this Indenture or the Notes, or that, subject to the terms of this Indenture, the Trustees determine (relying on an Opinion of Counsel) may be unduly prejudicial to the rights of other Holders or that may involve the Trustees in liability (it being expressly understood that the Trustees shall not have an affirmative duty to ascertain whether such action is prejudicial), unless the Trustees are offered security and indemnity satisfactory to each of them against any loss, claim, liability, cost or expense to the Trustees that may result from the Trustees following such direction.

Section 6.06 *Limitation on Suits.*

No Holder of a Note may pursue any remedy with respect to this Indenture or the Notes unless:

- (1) such Holder has previously given the Trustee written notice that an Event of Default is continuing;

- (2) Holders of at least 25% in aggregate principal amount of the then outstanding Notes have made a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer and, if requested, provide to the Trustee security or indemnity reasonably satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with such request within 60 days after receipt of the request and the offer of security or indemnity; and
- (5) during such 60-day period, Holders of a majority in aggregate principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with such request.

Section 6.07 *Rights of Holders to Receive Payment.*

Notwithstanding any other provision of this Indenture, the contractual right of any Holder of a Note to receive payment of principal of, premium on, if any, or interest, if any, on the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be amended without the consent of such Holder.

Section 6.08 *Collection Suit by Trustee.*

If an Event of Default specified in Section 6.01(a)(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium on, if any, and interest, if any, remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 *Trustee May File Proofs of Claim.*

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 *Priorities.*

If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

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

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10.

Section 6.11 *Undertaking for Costs.*

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

ARTICLE 7
TRUSTEE

Section 7.01 *Duties of Trustee.*

(a) If an Event of Default has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(1) the duties of the Trustees will be determined solely by the express provisions of this Indenture and the Trustees need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustees; and

(2) in the absence of bad faith on its part, the Trustees may conclusively act and rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustees and conforming to the requirements of this Indenture. However, the Trustees will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustees may not be relieved from liabilities for their own grossly negligent action, their own grossly negligent failure to act, or their own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(2) the Trustees will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was grossly negligent in ascertaining the pertinent facts; and

(3) the Trustees will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustees is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture will require the Trustees to expend or risk their own funds or incur any liability. The Trustees will be under no obligation to exercise any of its rights or powers under this Indenture at the request of any Holders, unless such Holder has offered to the Trustees funding, security and indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustees will not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

Section 7.02 *Rights of Trustees.*

(a) The Trustees may conclusively act and rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustees need not investigate any fact or matter stated in the document.

(b) Before either of the Trustees acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustees may employ or retain such counsel, accountants, appraisers, engineers or other experts or advisors as it reasonably requires for the purposes of determining and discharging its duties and administering its trusts hereunder and may pay reasonable remuneration for all services so performed by any of them, without taxation of costs of any counsel, and shall not be responsible for any misconduct or negligence of any of them. Any remuneration so paid by the Trustees shall be repaid to the Trustees in accordance with this Article 7.

(d) The Trustees may act and rely and shall be protected in acting and relying in good faith on the opinion or advice or information obtained from any counsel, accountant, appraiser, engineer or other expert or advisor, whether retained or employed by the Company or by the Trustees, in relation to any matter arising in the administration of the trusts hereof. The Trustees will not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

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

(f) The Trustees will be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustees reasonable funding, indemnity or security satisfactory to the Trustees against the losses, liabilities and expenses that might be incurred by it in compliance with such request or direction.

(g) The Trustees shall not be bound to make any investigation into the facts or matters stated in any Officer's Certificate, Opinion of Counsel, or any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, appraisal, bond, debenture, note, coupon, security other evidence of indebtedness or other paper or document.

(h) The Trustees shall have no duty to inquire as to the performance of the covenants of the Company and/or its Restricted Subsidiaries in this Indenture and shall be entitled to assume that the Company, the Guarantors and any Restricted Subsidiaries are in compliance with the terms of this Indenture.

(i) The permissive rights of the Trustees to take the actions permitted by this Indenture will not be construed as an obligation or duty to do so.

(j) Anything in this Indenture to the contrary notwithstanding, in no event shall the Trustees be liable for punitive, special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to loss of business, goodwill, opportunity or profits of any kind) of the Company, any Guarantor, any Restricted Subsidiary or any other person, even if the Trustees have been advised of the likelihood of such loss or damage and regardless of the form of action.

(k) In no event shall the Trustees be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of, or caused by, directly or indirectly, forces beyond its control, including, without limitation, pandemics or epidemics, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

(l) The Trustees may request that the Company deliver an Officer's Certificate setting forth the names of the individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any person authorized to sign an Officer's Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

Section 7.03 *Individual Rights of Trustee.*

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Section 7.10 hereof.

Section 7.04 *Trustee's Disclaimer.*

The Trustee will not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it will not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

Section 7.05 *Notice of Defaults.*

If a Default or Event of Default occurs and is continuing and if it is known to a Responsible Officer of the Trustee, the Trustee will mail to Holders a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium on, if any, or interest, if any, on, any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

Section 7.06 *[RESERVED].*

Section 7.07 *Compensation and Indemnity.*

(a) The Company will pay to the Trustees from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustees' compensation will not be limited by any law on compensation of a trustee of an express trust. The Company will reimburse the Trustees promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses will include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(b) The Company and the Guarantors will jointly and severally indemnify the Trustees and their officers, directors, employees and agents harmless from and against any and all actions and suits, whether groundless or otherwise, and from and against any and all losses, damages, costs, charges, counsel fees, payments, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company and the Guarantors (including this Section 7.07) and defending itself against any claim (whether asserted by the Company, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its gross negligence, willful misconduct or bad faith. The Trustees will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustees to so notify the Company will not relieve the Company or any of the Guarantors of their obligations hereunder. The Company or such Guarantor will defend the claim and the Trustees will cooperate in the defense. The Trustees may have separate counsel and the Company will pay the reasonable fees and expenses of such counsel. Neither the Company nor any Guarantor need pay for any settlement made without its consent, which consent will not be unreasonably withheld. The Trustees shall not be liable for any action taken, suffered, or omitted by it or for any error of judgement made by it in the performance of its duties under this Agreement. In no event will the Trustees be liable for special, indirect, consequential or punitive loss or damages of any kind whatsoever (including but not limited to lost profits), even if the Trustees has been advised of the possibility of such damages.

(c) The obligations of the Company and the Guarantors under this Section 7.07 will survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

(d) To secure the Company's and the Guarantors' payment obligations in this Section 7.07, the Trustee will have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium on, if any, or interest, if any, on, particular Notes. Such Lien will survive the satisfaction and discharge of this Indenture.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in clause (6) or (7) of Section 6.01(a) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

(f) The Company will pay to the Trustees from time to time reasonable remuneration for its services hereunder and will, upon the Trustees' request, pay to or reimburse the Trustees for all reasonable expenses, disbursements and advances made or incurred by the Trustees in the administration or execution of the trusts hereof (including the compensation and disbursements of its counsel and other advisors and assistants not regularly in its employ), both before any default hereunder and thereafter until all duties of the Trustees hereunder have been finally and fully performed, except any such expense, disbursement or advance that arises out of or results from gross negligence, willful misconduct or bad faith of the Trustees.

(g) If the Company shall fail to perform any of its covenants contained in this Indenture, the Trustees may notify the holders of such failure on the part of the Company or may themselves perform any of said covenants capable of being performed by them, but shall be under no obligation to do so or to notify the holders. All sums expended or advanced by the Trustees in so doing shall be repayable as provided in Section 7.07(f). No such performance, expenditure or advance by the Trustees shall be deemed to relieve the Company of any default hereunder or their continuing obligations hereunder.

Section 7.08 *Replacement of Trustee.*

(a) A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

(b) The Trustee may resign in writing at any time upon 30 days' notice and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in aggregate principal amount of the then outstanding Notes may remove the Trustee upon 30 days' notice by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10 hereof;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (3) a custodian or public officer takes charge of the Trustee or its property; or
- (4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

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

(e) If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will mail a notice of its succession to Holders. The retiring Trustee will promptly transfer all property held by it as Trustee to the successor Trustee; *provided* all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof will continue for the benefit of the retiring Trustee.

Section 7.09 *Successor Trustee by Merger, etc.*

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Trustee.

Section 7.10 *Eligibility; Disqualification.*

There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$100.0 million as set forth in its most recent published annual report of condition.

ARTICLE 8
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01 *Option to Effect Legal Defeasance or Covenant Defeasance.*

The Company may at any time elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes and the Note Guarantees upon compliance with the conditions set forth below in this Article 8.

Section 8.02 *Legal Defeasance and Discharge.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding Notes (including the Note Guarantees) on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company and the Guarantors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Note Guarantees), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all their other obligations under such Notes, the Note Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

- (1) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, premium, if any and interest on such Notes when such payments are due from the trust referred to in Section 8.04 hereof;
- (2) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof;
- (3) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's and the Guarantors' obligations in connection therewith; and
- (4) this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03 *Covenant Defeasance.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company, Parent and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from each of their obligations under any or all of the covenants contained in Sections 4.03, 4.04, 4.05, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.15, 4.16, 4.18 and 4.19 hereof and clause (2) of Section 5.01(a) hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes will thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes will not be deemed outstanding for accounting purposes). For this purpose, *Covenant Defeasance* means that, with respect to the outstanding Notes and Note Guarantees, the Company and the Guarantors may omit to comply with and will have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes and Note Guarantees will be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(3), (4), (5), and (8) hereof will not constitute Events of Default.

Section 8.04 *Conditions to Legal or Covenant Defeasance.*

In order to exercise either Legal Defeasance or Covenant Defeasance under either Section 8.02 or 8.03 hereof:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in Canadian dollars, Government Securities, rated AAA or better by S&P and Aaa by Moody's, or a combination thereof (or, in each case, if such Rating Agency ceases to rate such securities, the equivalent investment grade credit rating from any Rating Agency selected by the Company as a replacement Rating Agency), in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, investment bank or appraisal firm, to pay the principal of, premium, if any, and interest on the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be;

(2) in the case of an election under Section 8.02 hereof, the Company must deliver to the Trustee:

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

(B) an Opinion of Counsel in Canada reasonably acceptable to such Trustee or an advance income tax ruling from the Canada Revenue Agency confirming that the Holders and Beneficial Holders will not recognize income, gain or loss for Canadian federal income tax purposes as a result of such deposit and Legal Defeasance and will be subject to Canadian federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such deposit and Legal Defeasance had not occurred;

(3) in the case of an election under Section 8.03 hereof, the Company must deliver to the Trustee (A) an Opinion of Counsel confirming that the Holders and Beneficial Holders of the outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred and (B) an Opinion of Counsel in Canada reasonably acceptable to such Trustee or an advance income tax ruling from the Canada Revenue Agency confirming that the Holders and Beneficial Holders will not recognize income, gain or loss for Canadian federal income tax purposes as a result of such deposit and Covenant Defeasance and will be subject to Canadian federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such deposit and Covenant Defeasance had not occurred;

(4) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or an Event of Default resulting from a transaction occurring contemporaneously with the borrowing of funds, or the borrowing of funds, to be applied to such deposit and the grant of any Lien securing such borrowings);

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture (other than a Default or an Event of Default resulting from a transaction occurring contemporaneously with the borrowing of funds, or the borrowing of funds, to be applied to such deposit and the grant of any Lien securing such borrowings) or any other material agreement or instrument (including, without limitation, the Senior Secured Credit Facilities) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(6) the Company shall have delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders over any other creditors of the Company or with the intent of defeating, hindering, delaying or defrauding any other creditors of the Company or others; and

(7) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

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

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes will be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Notwithstanding anything in this Article 8 to the contrary, the Trustee will deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants, investment bank or appraisal firm expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06 *Repayment to Company.*

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium on, if any, or interest on any Note and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) will be discharged from such trust; and the Holder of such Note will thereafter be permitted to look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, will thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the Globe and Mail, the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 8.07 *Reinstatement.*

If the Trustee or Paying Agent is unable to apply any U.S. dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and the Guarantors' obligations under this Indenture and the Notes and the Note Guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium on, if any, or interest on, any Note following the reinstatement of its obligations, the Company will be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 *Without Consent of Holders.*

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

- (1) to cure any ambiguity, defect, or inconsistency; *provided* that such change does not adversely affect the rights of any of the Holders in any material respect;
- (2) to provide for uncertificated Notes in addition to or in place of certificated Notes;
- (3) to provide for the assumption of the Company's or a Guarantor's obligations to the Holders of the Notes and Note Guarantees by a successor to the Company or such Guarantor pursuant to Article 5 or Article 10 hereof;
- (4) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder;
- (5) to conform the text of this Indenture, the Notes or the Note Guarantees to any provision of the "Description of the Notes" section of the Offering Circular, to the extent that such provision in that "Description of the Notes" was intended to be a verbatim recitation of a provision of this Indenture, the Notes or the Note Guarantees, which intent may be evidenced by an Officer's Certificate to that effect;
- (6) at the Company's election, to comply with any requirement of the SEC in connection with the qualification of this Indenture under the Trust Indenture Act of 1939, as amended, if the Company elects to so qualify this Indenture, and, if so qualified, maintain the qualification of this Indenture under the TIA;
- (7) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture;

(8) to allow any Guarantor to execute a supplemental indenture (including without limitation to evidence its Note Guarantee) and/or a Note Guarantee with respect to the Notes; *provided* that any such supplemental indenture need be signed only by the Company, the added Guarantor and the Trustee;

(9) to provide for any Subsidiary of the Company or any other Person to provide a Note Guarantee, to add Note Guarantees with respect to the Notes, to add security to or for the benefit of Holders of the Notes, or to confirm and evidence the release, termination or discharge of (i) any Note Guarantee of the Notes or (ii) any Lien then securing the Notes, when required or not prohibited by this Indenture; or

(10) to make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes as permitted by this Indenture, including to facilitate the issuance and administration of Notes; *provided, however*, that (i) compliance with this Indenture as so amended would not result in Notes being transferred in violation of the Securities Act or any other applicable securities laws and (ii) such amendment does not adversely affect the rights of Holders to transfer Notes in any material respect.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustees of the documents described in Section 7.02 hereof, the Trustees will join with the Company and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustees, in their own judgment, will not be obligated to enter into such amended or supplemental indenture that adversely affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02 *With Consent of Holders.*

Except as provided in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture (including, without limitation, Section 4.10 and 4.15 hereof) and the Notes and the Note Guarantees with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, Additional Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium on, if any, or interest, if any, on, the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or the Notes or the Note Guarantees may be waived with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, Additional Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 hereof shall determine which Notes are considered to be “outstanding” for purposes of this Section 9.02.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee will join with the Company and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture directly adversely affects the Trustee’s own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental Indenture.

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

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company will mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Indenture, the Notes or the Note Guarantees. However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

- (1) reduce the amount of Notes whose Holders must consent to an amendment;
- (2) reduce the rate of, or change the time for payment of, interest, including defaulted interest, on any Notes;
- (3) reduce the principal of, or change the fixed maturity of, any Notes, or change the date on which any Notes may be subject to redemption or reduce the redemption price therefor;
- (4) make any Notes payable in money other than that stated in the Notes;
- (5) make any change in the contractual provisions of this Indenture protecting the legal right of each Holder to receive payment of principal of and interest on such Note on or after the due date thereof or to bring suit to enforce such payment, or permitting Holders of a majority in aggregate principal amount of Notes outstanding to waive Defaults or Events of Default;
- (6) after the Company's obligation to purchase Notes arises thereunder, amend, change or modify in any material respect the obligation of the Company to make and consummate a Change of Control Offer in the event of a Change of Control or make and consummate a Net Proceeds Offer with respect to any Asset Sale that has been consummated or, after such Change of Control has occurred or such Asset Sale has been consummated, modify any of the provisions or definitions with respect thereto;
- (7) release any Guarantor that is a Significant Subsidiary from any of its obligations under its Note Guarantee or this Indenture otherwise than in accordance with the terms of this Indenture;
- (8) make any change in the provisions of this Indenture described under Section 4.16 that adversely affects the right of any Holder or Beneficial Holder in any material respect or amends the terms of such Notes in a way that would result in a loss of an exemption from any of the Taxes described thereunder or an exemption from any obligation to withhold or deduct Taxes so described thereunder unless the Company agrees to pay Additional Amounts, if any, in respect thereof; or
- (9) make any change in the preceding amendment and waiver provisions.

Notwithstanding anything to the contrary herein, prior to the Escrow End Date, any modifications, waivers, amendments, consents or eliminations of any provision under this Indenture or the Escrow Agreement related to any matters described Section 3.09 hereof or Section 4 of the Escrow Agreement will require the consent of each Holder affected thereby (except for modifications or amendments that (i) cure any ambiguity, omission, mistake, defect, error or inconsistency, (ii) provide additional rights or benefits to the noteholders or do not materially adversely affect the legal rights under this Indenture or the Escrow Agreement of the noteholders, (iii) evidence or provide for the acceptance and appointment of a successor Escrow Agent, or (iv) conform the text of this Indenture or the Escrow Agreement to any provision of Offering Circular, as set forth in an Officer's Certificate, which may be made by the Company and the Trustee or Escrow Agent, as applicable).

Section 9.03 *Revocation and Effect of Consents.*

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.04 *Notation on or Exchange of Notes.*

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note will not affect the validity and effect of such amendment, supplement or waiver.

Section 9.05 *Trustee to Sign Amendments, etc.*

The Trustee will sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. In executing any amended or supplemental indenture, the Trustee will be entitled to receive and (subject to Section 7.01 hereof) will be fully protected in relying upon, in addition to the documents required by Section 12.04 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

ARTICLE 10
NOTE GUARANTEES

Section 10.01 *Guarantee.*

(a) Subject to this Article 10, each of the Guarantors hereby, jointly and severally, fully and unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(1) the principal of, premium, if any, on, and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of, premium on, if any, and interest on the Notes, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) Subject to this Article 10, the Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Note Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(c) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

(d) Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee. The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantee.

Section 10.02 *Limitation on Guarantor Liability.*

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance or a transfer under value for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal, state or provincial law to the extent applicable to any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 10, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent transfer or conveyance.

Section 10.03 *Execution and Delivery of Supplemental Indenture.*

To evidence its Note Guarantee set forth in Section 10.01 hereof, each Guarantor hereby agrees that its execution and delivery of this Indenture or, if applicable, any supplemental indenture pursuant to Section 4.18 hereof and this Section 10.03 shall evidence its Note Guarantee set forth in Section 10.01 hereof without the need for notation on the Notes.

If an Officer whose signature is on this Indenture no longer holds that office at the time the Trustee authenticates the Note, the Note Guarantee will be valid nevertheless.

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

If, after the Issue Date, any Restricted Subsidiary of the Company Guarantees any Indebtedness of the Company or a Guarantor under (i) a Credit Facility or (ii) Capital Markets Indebtedness in an aggregate principal amount exceeding \$100.0 million, if required by Section 4.18 hereof, the Company will cause such Restricted Subsidiary to comply with the provisions of Section 4.18 hereof and this Article 10, to the extent applicable.

Section 10.04 *Guarantors May Consolidate, etc., on Certain Terms.*

Except as otherwise provided in Section 10.05 hereof, each Guarantor will not, and Parent and the Company will not cause or permit any Guarantor to, amalgamate or consolidate with or merge with or into any Person other than Parent, the Company or any other Guarantor unless:

- (1) the entity formed by or surviving any such amalgamation, consolidation or merger (if other than such Guarantor) or to which such sale, lease, conveyance or other disposition shall have been made is an entity organized or existing under the laws of Canada (or any province thereof), laws of the United States or any State thereof or the District of Columbia, the United Kingdom, any member state of the European Union or such other jurisdiction as such Guarantor was organized or existing under;
- (2) such entity (if other than such Guarantor) assumes by supplemental indenture all of the obligations of the Guarantor on its Note Guarantee; and
- (3) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing.

Any amalgamation, merger or consolidation of, or sale, assignment, transfer, lease, conveyance or other disposition of assets by, a Guarantor with Parent or the Company (with Parent or the Company being the surviving entity in case of an amalgamation, merger or consolidation) or another Guarantor that is a Wholly Owned Restricted Subsidiary of the Company need only comply with Section 5.01(a)(4).

In case of any such amalgamation, consolidation, merger, sale, assignment, transfer, or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Note Guarantee and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person will succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. All the Note Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Note Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 4 and 5 hereof, and notwithstanding clause (1) above, nothing contained in this Indenture or in any of the Notes will prevent any amalgamation, consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale, assignment, transfer, or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

Section 10.05 *Releases.*

(a) In the event of any sale, assignment, transfer, conveyance, or other disposition of all or substantially all of the assets of any Guarantor, by way of amalgamation, merger, consolidation or otherwise, to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary of the Company, then the corporation acquiring the property will be released and relieved of any obligations under the Note Guarantee;

(b) In the event of any sale, assignment, transfer, conveyance, or other disposition of Capital Stock of any Guarantor to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary of the Company and such Guarantor ceases to be a Restricted Subsidiary of the Company as a result of the sale or other disposition, then such Guarantor will be released and relieved of any obligations under its Note Guarantee;

provided, in both cases, that the Net Cash Proceeds of such sale, assignment, transfer, conveyance, or other disposition are applied in accordance with the applicable provisions of this Indenture, including without limitation Section 4.10 hereof. Upon delivery by the Company to the Trustee of an Officer's Certificate and an Opinion of Counsel to the effect that such sale, assignment, transfer, conveyance, or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 4.10 hereof, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee.

(c) Upon designation of any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary in accordance with the terms of this Indenture, such Guarantor will be released and relieved of any obligations under its Note Guarantee.

(d) Upon Legal Defeasance or Covenant Defeasance in accordance with Article 8 hereof or satisfaction and discharge of this Indenture in accordance with Article 11 hereof, each Guarantor will be released and relieved of any obligations under its Note Guarantee.

(e) A Guarantor's Note Guarantee shall be automatically released upon such Guarantor being released from or discharged of, its Guarantee of, and all pledges and security, if any, granted by such Guarantor in connection with, the Senior Secured Credit Facilities or such other Guarantee that resulted in the creation of such Note Guarantee (except, in the case of the Senior Secured Credit Facilities, a release by or as a result of a payment thereon).

Any Guarantor not released from its obligations under its Note Guarantee as provided in this Section 10.05 will remain liable for the full amount of principal of, premium on, if any, and interest on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 10.

ARTICLE 11
SATISFACTION AND DISCHARGE

Section 11.01 *Satisfaction and Discharge.*

This Indenture (including the Notes and the Note Guarantees) will be discharged and the Indenture will cease to be of further effect as to all Notes and Note Guarantees issued hereunder, when:

(1) either:

(a) all the Notes theretofore authenticated and delivered (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust) have been delivered to the Trustee for cancellation; or

(b) all Notes not theretofore delivered to the Trustee for cancellation have become due and payable or will become due and payable within one year (or are to be called for redemption within one year), and the Company has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient (in the opinion of a nationally recognized firm of independent certified public accountants) to pay and discharge the entire Indebtedness on the Notes not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to the date of maturity or redemption, as the case may be, together with irrevocable instructions from the Company directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be;

(2) the Company has paid all other sums payable under this Indenture by the Company; and

(3) the Company, upon request for written acknowledgement of such satisfaction and discharge, has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture relating to the satisfaction and discharge of this Indenture have been complied with.

In the case of satisfaction and discharge, upon any redemption that requires the payment of the Applicable Premium, the amount deposited with the Trustee shall be sufficient for purposes of subclause (b) of clause (1) of this Section 11.01 to the extent that an amount is deposited with the Trustee equal to the Applicable Premium calculated as of three Business Days prior to the date of such deposit, with any deficit as of the date of redemption (any such amount, the "*Applicable Premium Deficit*") only required to be deposited with the Trustee on or prior to the date of redemption. Any Applicable Premium Deficit shall be set forth in an Officer's Certificate delivered to the Trustee simultaneously with the deposit of such Applicable Premium Deficit that confirms that such Applicable Premium Deficit shall be applied toward such redemption.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 11.01, the provisions of Sections 11.02 and 8.06 hereof will survive. In addition, nothing in this Section 11.01 will be deemed to discharge those provisions of Section 7.07 hereof, that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 11.02 *Application of Trust Money.*

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 11.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal, premium, if any, and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01 hereof; *provided* that if the Company has made any payment of principal of, premium on, if any, or interest on any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE 12
MISCELLANEOUS

Section 12.01 *[RESERVED]*.

Section 12.02 *Notices.*

Any notice or communication by the Company, any Guarantor or the Trustee to the others is duly given if in writing and delivered in Person or by first class mail (registered or certified, return receipt requested), facsimile transmission, given by electronic mail in PDF format or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company and/or any Guarantor:

Ritchie Bros. Holdings Ltd.
9500 Glenlyon Parkway
Burnaby, British Columbia, Canada V5J 0C6
Facsimile No.: (778) 331-4629
Attention: Sharon Driscoll and Legal Affairs

With a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue
Palo Alto, California 94301
Facsimile No.: (213) 621-5234
Attention: Gregg Noel

If to the Trustee:

U.S. Bank National Association
Global Corporate Trust Services
555 SW Oak Street, PD-OR-P7TD
Portland, OR 97204
Facsimile No.: (503) 464-4155
Attention: Linda A. McConkey, Vice President

and

TSX Trust Company
1 Toronto Street
Suite 1200
Toronto, Ontario M5C 2V6
Attention: VP, Corporate Trust
Email: corporatetrust@astfinancial.com

The Company, any Guarantor or the Trustee, by notice to the others, may designate additional or different addresses, including electronic mail addresses, for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by facsimile or delivered by electronic mail (in PDF format); and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder will be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar or, with respect to Global Notes, to the extent permitted or required by applicable CDS procedures or regulations, sent electronically. Failure to deliver, mail, transmit or send a notice or communication to a Holder or any defect in it will not affect its sufficiency with respect to other Holders.

If a notice or communication is delivered, mailed, transmitted or sent in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails or sends a notice or communication to Holders, it will mail or send a copy to the Trustee and each Agent at the same time.

Section 12.03 *Communication by Holders with Other Holders.*

Holders may communicate with other Holders with respect to their rights under this Indenture or the Notes.

Section 12.04 *Certificate and Opinion as to Conditions Precedent.*

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

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

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 12.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 12.05 *Statements Required in Certificate or Opinion.*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than the certificate required by Section 4.04) must include:

- (1) a statement that the Person making such certificate or opinion has read such covenant or condition;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (3) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and
- (4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 12.06 *Rules by Trustee and Agents.*

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12.07 *No Personal Liability of Directors, Officers, Employees and Stockholders.*

No director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the Notes, this Indenture, the Note Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 12.08 *Governing Law; Submission to Jurisdiction; Waiver of Trial by Jury*

THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES AND THE NOTE GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Company, each of the Guarantors and the Trustee agree that any suit, action or proceeding arising out of or based upon this Indenture may be instituted in any State or U.S. federal court located in The City of New York and County of New York, and waives any objection that such party may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding. The Company and each Guarantor agrees that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Company and each Guarantor, as applicable, and may be enforced in any court to the jurisdiction of which the Company and each Guarantor, as applicable, is subject by a suit upon such judgment.

The Company and each of the Guarantors irrevocably appoint RBA Holdings Inc. as its authorized agent upon which process may be served in any such suit or proceeding, and agrees that service of process upon such authorized agent, and written notice of such service to the Company or any such Guarantor, as the case may be, by the person serving the same to the address provided in Section 12.02, shall be deemed in every respect effective service of process upon the Company and such Guarantor in any such suit or proceeding. RBA Holdings Inc. hereby accepts such appointment and agrees to act as such authorized agent for service of process. The Company and each of the Guarantors further agree to take any and all action as may be necessary to maintain such designation and appointment of such authorized agent (or a successor authorized agent that has been validly appointed and which has accepted such appointment; *provided* the Company notifies the Trustee of such succession in writing) in full force and effect until no Notes remain outstanding.

THE COMPANY, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS INDENTURE, THE NOTES, THE NOTE GUARANTEES AND FOR ANY COUNTERCLAIM THEREIN.

Section 12.09 *No Adverse Interpretation of Other Agreements.*

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.10 *Successors.*

All agreements of the Company in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 10.05.

Section 12.11 *Severability.*

In case any provision in this Indenture or in the Notes is invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 12.12 *Counterpart Originals.*

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

Section 12.13 *Table of Contents, Headings, etc..*

The Table of Contents and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions hereof.

Section 12.14 *USA PATRIOT Act.*

The parties hereto acknowledge that, in accordance with Section 326 of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law on October 26, 2001)) (as amended, modified or supplanted from time to time, the “*USA PATRIOT Act*”), the Trustee, like all financial institutions, is required to obtain, verify, and record information that identifies each person or legal entity that opens an account. The parties to this Indenture agree that they will provide the Trustee with such information as the Trustee may request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

Section 12.15 *Interest Act (Canada).*

Solely for purposes of disclosure under the *Interest Act* (Canada), the yearly rate of interest to which interest is calculated under a note for any period in any calendar year (the “*Calculation Period*”) is equivalent to the rate payable under a note in respect of the Calculation Period multiplied by a fraction the numerator of which is the actual number of days in such calendar year and the denominator of which is the actual number of days in the Calculation Period.

Section 12.16 *Usury Saving Clause.*

If any provision of this Indenture, the Note Guarantee or the Notes would obligate the Company or any Guarantor that is a Canadian Restricted Subsidiary to make any payment of or on account of interest or other amount in an amount or calculated at a rate which would result in a receipt by any Holder of interest at a criminal rate (as such term is construed under the *Criminal Code* (Canada)), then notwithstanding such provisions, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not so result in a receipt by such Holder of interest at a criminal rate, such adjustment to be effected, to the extent necessary, as follows: (1) firstly, by reducing the amount or rate of interest required to be paid to such Holder, and (2) thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to such Holder which would constitute “interest” for purposes of Section 347 of the *Criminal Code* (Canada).

Section 12.17 *Limitations Act, 2002 (Ontario).*

Any and all limitation periods provided for in the *Limitations Act, 2002* (Ontario), as amended from time to time, or any other applicable law limiting the time for which an action may be commenced shall be excluded from application to the obligations of any Guarantor hereunder to fullest extent permitted by such act or applicable law.

[Signatures on following page]

SIGNATURES

Dated as of December 21, 2021

Ritchie Bros. Holdings Ltd.

By: /s/ Darren Watt
Name: Darren Watt
Title: Corporate Secretary

U.S. Bank National Association, as Trustee

By: /s/ Linda A. McConkey

Name: Linda A. McConkey

Title: Vice President

TSX Trust Company, as Co-Trustee

By: /s/ Nelia Andrade

Name: Nelia Andrade

Title: Authorized Signatory

By: /s/ Marcus Boire

Name: Marcus Boire

Title: Authorized Signatory

[Face of Note]

CUSIP/CINS _____

4.950% Senior Notes due 2029

No. ____

\$ _____

RITCHIE BROS. HOLDINGS LTD.

promises to pay to _____ or registered assigns,

the principal sum of _____ DOLLARS [(or, in the event of adjustment in accordance with the within-mentioned Indenture, such other amount as may be stated from time to time on the "Schedule of Exchanges of Interests in the Global Note" attached hereto)]* on December 15, 2029.

Interest Payment Dates: June 15 and December 15

Record Dates: June 1 and December 1

Dated: _____

* *The bracketed language should be included only if the Note is issued in global form.*

RITCHIE BROS. HOLDINGS LTD.

By: _____
Name:
Title:

This is one of the Notes referred to
in the within-mentioned Indenture:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

TSX TRUST COMPANY,
as Co-Trustee

By: _____
Authorized Signatory

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Canadian Legend]

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

(1) *INTEREST.* Ritchie Bros. Holdings Ltd., a Canadian federal corporation (the “*Company*”), promises to pay or cause to be paid interest on the principal amount of this Note at 4.950% per annum from _____, ____ until maturity. The Company will pay interest, if any, semi-annually in arrears on June 15 and December 15 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an “*Interest Payment Date*”). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that, if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided further* that the first Interest Payment Date shall be _____, _____. The Company will pay interest (including post-petition interest in any case or proceeding under any Bankruptcy Law) on overdue principal at the interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any case or proceeding under any Bankruptcy Law) on overdue installments of interest, if any (without regard to any applicable grace period), at the same rate to the extent lawful.

Interest will be computed on the basis of a 365- or 366-day year, as applicable, and will be payable in equal semi-annual amounts; except that interest in respect of any period that is longer or shorter than a full semi-annual interest period will be computed on the basis of a 365-day year or 366-day year, as applicable, and the actual number of days elapsed in the relevant period. Solely for purposes of disclosure under the *Interest Act* (Canada), the yearly rate of interest to which interest is calculated under a note for any period in any calendar year (the “*Calculation Period*”) is equivalent to the rate payable under a note in respect of the Calculation Period multiplied by a fraction the numerator of which is the actual number of days in such calendar year and the denominator of which is the actual number of days in the Calculation Period.

(2) *METHOD OF PAYMENT.* The Company will pay interest on the Notes (except defaulted interest), if any, to the Persons who are registered Holders at the close of business on the June 1 or December 1 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium, if any, and interest, if any, at the office or agency of the Paying Agent within the City of Toronto, Ontario, Canada, or, at the option of the Company, payment of interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders; *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, premium on, if any, and interest, if any, on, all Global Notes and all other Notes the Holders of which will have provided wire transfer instructions to the Company or the Paying Agent; *provided, further*, that the Company will pay all principal, interest and premium, if any, on any Global Notes registered in the name of CDS or its nominee in immediately available funds to CDS or such nominee, as the case may be, as the registered holder of such Global Notes. Such payment will be in such coin or currency of Canada as at the time of payment is legal tender for payment of public and private debts.

(3) *PAYING AGENT AND REGISTRAR.* Initially, TSX Trust Company, the Co-Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change the Paying Agent or Registrar without prior notice to the Holders of the Notes. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

(4) *INDENTURE.* The Company issued the Notes under an Indenture dated as of December 21, 2021 (the “*Indenture*”) between the Company and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Indenture does not limit the aggregate principal amount of Notes that may be issued thereunder.

(5) *OPTIONAL REDEMPTION.*

(a) At any time prior to December 15, 2024, the Notes will be redeemable, at the Company’s option, in whole or in part from time to time, upon not less than 15 nor more than 60 days’ written notice, at a price equal to the Canada Yield Price plus accrued and unpaid interest, if any, to, but excluding, the redemption date (subject to the right of holders of record on the applicable record date to receive interest due on the applicable interest payment date).

(b) In addition, the Company may redeem the Notes at its option, in whole or in part, upon not less than 15 nor more than 60 days’ written notice, at the following redemption prices (expressed as percentages of the principal amount thereof) plus accrued and unpaid interest, if any, to, but excluding, the redemption date if redeemed during the 12-month period commencing on December 15 of the year set forth below:

Year	Percentage
2024	102.475%
2025	101.238%
2026 and thereafter	100.000%

In addition, the Company must pay accrued and unpaid interest on the Notes redeemed to, but excluding, the redemption date (subject to the right of Holders on the applicable record date to receive interest due on the applicable Interest Payment Date).

(c) At any time, or from time to time, on or prior to December 15, 2024 the Company may, at its option, use an amount of cash up to the Net Cash Proceeds of one or more Equity Offerings to redeem, upon not less than 15 nor more than 60 days’ written notice up to 40% of the principal amount of the Notes (including any Additional Notes) outstanding under the Indenture at a redemption price of 104.950% of the principal amount thereof plus accrued and unpaid interest thereon, if any, to, but excluding, the redemption date (subject to the right of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date); *provided* that:

(1) at least 50% of the principal amount of Notes (including any Additional Notes) outstanding under the Indenture remains outstanding immediately after any such redemption; and

(2) the Company makes such redemption not more than 90 days after the consummation of any such Equity Offering.

(d) If, as a result of:

(1) any amendment to, or change in, the laws or treaties (or regulations or rulings promulgated thereunder) of any Relevant Taxing Jurisdiction which is announced or becomes effective on or after the Issue Date (or, where a jurisdiction in question does not become a Relevant Taxing Jurisdiction until a later date, such later date); or

(2) any amendment to, or change in, the existing official written position or the introduction of a written official position regarding the application, interpretation, administration or assessing practices of any such laws, regulations or rulings of any Relevant Taxing Jurisdiction, or a judicial decision rendered by a court of competent jurisdiction (whether or not made, taken or reached with respect to the Company or any of the Guarantors) which is announced on or after, and becomes effective on or after (or is implemented with an effective date prior to) the Issue Date (or, where a jurisdiction in question does not become a Relevant Taxing Jurisdiction until a later date, such later date),

the Company or any Guarantor has become or will become obligated to pay, on the next date on which any amount would be payable with respect to the Notes or a Note Guarantee, as applicable, Additional Amounts or indemnification payments as described under Section 4.16 of the Indenture with respect to the Relevant Taxing Jurisdiction, which payment the Company or the Guarantor (but, in the case of a Guarantor, only if the payment giving rise to such requirement cannot be made by the Company or another Guarantor without the obligation to pay Additional Amounts) cannot avoid with the use of reasonable measures available to it (including making payment through a paying agent located in another jurisdiction), then the Company may, at its option, redeem all but not less than all of the Notes, upon not more than 60 days' notice prior to the earliest date on which the Company or a Guarantor, as applicable, would be required to pay such Additional Amounts or indemnification payments, at a redemption price of 100% of their principal amount, plus accrued and unpaid interest, if any, to, but excluding, the redemption date (subject to the right of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date). The Company will not give any such notice of redemption unless at the time such notice is given, the obligation to pay Additional Amounts remains in effect. Prior to the giving of any notice of redemption described in Section 3.07(d) of the Indenture, the Company will deliver to the Trustee a written opinion of independent legal counsel to the Company or the Guarantor, as applicable, of recognized standing and reasonably satisfactory to the Trustee (such approval not to be unreasonably withheld, conditioned or delayed), to the effect that the Company or the Guarantor, as applicable, has or will become obligated to pay such Additional Amounts or indemnification payments as a result of an amendment or change described above.

In addition, prior to the giving of any such notice of redemption, the Company will deliver to the Trustee an Officer's Certificate to the effect that the obligation to pay Additional Amounts cannot be avoided by the Company or the relevant Guarantor (but, in the case of a Guarantor, only if the payment giving rise to such requirement cannot be made by the Company or another Guarantor without the obligation to pay Additional Amounts) taking reasonable measures available to it; provided that changing the jurisdiction of incorporation or formation of the Company or relevant Guarantor shall not be considered a reasonable measure.

The Trustee will accept and shall be entitled to rely on such Officer's Certificate and opinion of counsel as sufficient evidence of the existence and satisfaction of the conditions precedent as described above, in which event it will be conclusive and binding on the Holders.

(e) Any redemption pursuant to this paragraph 5 shall be made pursuant to the provisions of Sections 3.01 through 3.06 of the Indenture.

(6) *MANDATORY REDEMPTION.* The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes, other than a Special Mandatory Redemption under Section 3.09 of the Indenture.

(7) *REPURCHASE AT THE OPTION OF HOLDER.*

(a) Upon the occurrence of a Change of Control, the Company will offer to purchase all or a portion of such Holder's Notes pursuant to the offer described in Section 4.15 of the Indenture (a "*Change of Control Offer*"), at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest thereon, if any, to, but excluding, the date of purchase. Within 30 days following the date upon which the Change of Control occurred, the Company shall send a written notice to each Holder, with a copy to the Trustee, which notice shall govern the terms of the Change of Control Offer.

(b) Subject to Section 4.10(a) of the Indenture, if any Net Cash Proceeds have not been applied as provided in clauses (3) (A), (3)(B) and (3)(C) thereof within the applicable time period or the last provision of this sentence, such Net Cash Proceeds shall be applied by the Company, Parent or such Restricted Subsidiary to make an offer to purchase (the "*Net Proceeds Offer*") to all Holders and, to the extent required by the terms of any Pari Passu Indebtedness, to holders of such Pari Passu Indebtedness, on a date (the "*Net Proceeds Offer Payment Date*") not less than 30 nor more than 60 days following the date that triggered the Company's obligation to make such Net Proceeds Offer, from all Holders (and holders of any such Pari Passu Indebtedness) on a pro rata basis based upon the respective outstanding aggregate principal amounts (or accreted value, as applicable) of the Notes and Pari Passu Indebtedness on the date the Net Proceeds Offer is made, the maximum amount (or accreted value, as applicable) of Notes and Pari Passu Indebtedness that may be purchased with the Net Proceeds Offer Amount at a price equal to 100% of the principal amount (or accreted value, as applicable) of the Notes and Pari Passu Indebtedness to be purchased, plus accrued and unpaid interest thereon, if any, to the date of purchase; *provided, however*, that if at any time any non-cash consideration received by Parent or any Restricted Subsidiary of Parent, 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 Section 4.10 of the Indenture.

(8) *NOTICE OF REDEMPTION.* Except as described above under Section 3.09 of the Indenture, notice of redemption will be sent electronically or mailed by first-class mail at least 15 but not more than 60 days before the redemption date to each Holder at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Indenture pursuant to Articles 8 or 11 of the Indenture. Notes and portions of Notes selected will be in amounts of C\$2,000 or whole multiples of C\$1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder shall be redeemed or purchased.

Notice of any redemption of the Notes in connection with a corporate transaction (including an Equity Offering, an incurrence of Indebtedness, an amalgamation, consolidation or merger or a Change of Control) may, at the Company's discretion, be given prior to the completion thereof and any such redemption or notice may, at the Company's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of the related transaction. If such redemption or purchase is so subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Company's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied or waived by the Company (in its sole discretion), or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied or waived by the redemption date, or by the redemption date as so delayed. In addition, the Company may provide in such notice that payment of the redemption price and performance of the Company's obligations with respect to such redemption may be performed by another Person.

(9) *DENOMINATIONS, TRANSFER, EXCHANGE.* The Notes are in registered form in denominations of C\$2,000 and integral multiples of C\$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the next succeeding Interest Payment Date.

(10) *PERSONS DEEMED OWNERS.* The registered Holder of a Note may be treated as the owner of it for all purposes. Only registered Holders have rights under the Indenture.

(11) *AMENDMENT, SUPPLEMENT AND WAIVER.* The Indenture, the Notes or the Note Guarantees may be amended or supplemented in accordance with Article 9 of the Indenture.

(12) *DEFAULTS AND REMEDIES.* The Notes are subject to the Events of Default and remedies set forth in Article 6 of the Indenture. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required, upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

(13) *TRUSTEE DEALINGS WITH COMPANY.* The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

(14) *NO RECOURSE AGAINST OTHERS.* No director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the Notes, the Indenture, the Note Guarantees, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

(15) *AUTHENTICATION.* This Note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

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

(17) *GUARANTEES.* This Note is guaranteed as set forth in the Indenture.

(18) *CUSIP/CINS NUMBERS.* Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP/CINS numbers to be printed on the Notes, and the Trustee may use CUSIP/CINS numbers in notices (including notices of redemption) as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice, and reliance may be placed only on the other identification numbers placed thereon.

(19) *GOVERNING LAW.* THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THIS NOTE AND THE NOTE GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Ritchie Bros. Holdings Ltd.
9500 Glenlyon Parkway
Burnaby, British Columbia, Canada V5J 0C6
Attention: Sharon Driscoll and Legal Department

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: _____
(Insert assignee's legal name)

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

(Print or type assignee's name, address and zip code)

and irrevocably appoint _____
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: _____

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

Signature Guarantee*: _____

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

Option of Holder to Elect Purchase

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, check the appropriate box below:

Section 4.10 Section 4.15

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

\$ _____

Date: _____

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

Tax Identification No.: _____

Signature Guarantee*: _____

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

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE *

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

<u>Date of Exchange</u>	Amount of decrease in Principal Amount of <u>this Global Note</u>	Amount of increase in Principal Amount of <u>this Global Note</u>	Principal Amount of this Global Note following such decrease (<u>or increase</u>)	Signature of authorized officer of <u>Trustee</u>
-------------------------	--	--	--	--

* *This schedule should be included only if the Note is issued in global form.*

FORM OF CERTIFICATE OF TRANSFER

Ritchie Bros. Holdings Ltd.
 9500 Glenlyon Parkway
 Burnaby, British Columbia, Canada V5J 0C6

TSX Trust Company
 1 Toronto Street
 Suite 1200
 Toronto, Ontario M5C 2V6
 Attention: VP, Corporate Trust
 Email: corporatetrust@astfinancial.com

Re: 4.950% Senior Notes due 2029

Reference is hereby made to the Indenture, dated as of December 21, 2021 (as amended, supplemented or otherwise modified from time to time, the “*Indenture*”), among Ritchie Bros. Holdings Ltd., as issuer (the “*Company*”), U.S. Bank National Association, as trustee, and TSX Trust Company, as co-trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the “*Transferor*”) owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$_____ in such Note[s] or interests (the “*Transfer*”), to _____ (the “*Transferee*”), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. **Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Restricted Definitive Note pursuant to Rule 144A.** The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the “*Securities Act*”), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a “qualified institutional buyer” within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A, and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

2. **Check if Transferee will take delivery of a beneficial interest in the Regulation S Global Note or a Restricted Definitive Note pursuant to Regulation S.** The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

3. **Check and complete if Transferee will take delivery of a beneficial interest in the IAI Global Note or a Restricted Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S.** The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

OR

(b) such Transfer is being effected to the Company or a subsidiary thereof;

OR

(c) such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

OR

(d) such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Notes at the time of transfer of less than \$250,000, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the IAI Global Note and/or the Restricted Definitive Notes and in the Indenture and the Securities Act.

4. **Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.**

(a) **Check if Transfer is pursuant to Rule 144.** (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) **Check if Transfer is Pursuant to Regulation S.** (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) **Check if Transfer is Pursuant to Other Exemption.** (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____

Name: _____

Title: _____

Dated: _____

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (A) OR (B)]

- (a) a beneficial interest in the:
 - (i) 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
 - (iii) IAI Global Note (CUSIP _____); or
- (b) a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

- (a) a beneficial interest in the:
 - (i) 144A Global Note (CUSIP _____), or
 - (ii) Regulation S Global Note (CUSIP _____), or
 - (iii) IAI Global Note (CUSIP _____); or
 - (iv) Unrestricted Global Note (CUSIP _____); or
- (b) a Restricted Definitive Note; or
- (c) an Unrestricted Definitive Note,

in accordance with the terms of the Indenture.

FORM OF CERTIFICATE OF EXCHANGE

Ritchie Bros. Holdings Ltd.
 9500 Glenlyon Parkway
 Burnaby, British Columbia, Canada V5J 0C6

TSX Trust Company
 1 Toronto Street
 Suite 1200
 Toronto, Ontario M5C 2V6
 Attention: VP, Corporate Trust
 Email: corporatetrust@astfinancial.com

Re: 4.950% Senior Notes due 2029

(CUSIP [])

Reference is hereby made to the Indenture, dated as of December 21, 2021 (as amended, supplemented or otherwise modified from time to time, the “*Indenture*”), among Ritchie Bros. Holdings Ltd., as issuer (the “*Company*”), U.S. Bank National Association, as trustee, and TSX Trust Company, as co-trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____, (the “*Owner*”) owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$ _____ in such Note[s] or interests (the “*Exchange*”). In connection with the Exchange, the Owner hereby certifies that:

1. **Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note**

(a) **Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note.** In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the Securities Act of 1933, as amended (the “*Securities Act*”), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) **Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note.** In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) **Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. **Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes**

(a) **Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) **Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note.** In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] 144A Global Note, Regulation S Global Note, IAI Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: _____

Name:

Title:

Dated: _____

FORM OF CERTIFICATE FROM
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

Ritchie Bros. Holdings Ltd.
9500 Glenlyon Parkway
Burnaby, British Columbia, Canada V5J 0C6

TSX Trust Company
1 Toronto Street
Suite 1200
Toronto, Ontario M5C 2V6
Attention: VP, Corporate Trust
Email: corporatetrust@astfinancial.com

Re: 4.950% Senior Notes due 2029

Reference is hereby made to the Indenture, dated as of December 21, 2021 (as amended, supplemented or otherwise modified from time to time, the “*Indenture*”), among Ritchie Bros. Holdings Ltd., as issuer (the “*Company*”), U.S. Bank National Association, as trustee, and TSX Trust Company, as co-trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$_____ aggregate principal amount of:

- (a) a beneficial interest in a Global Note, or
- (b) a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the “*Securities Act*”).

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a “qualified institutional buyer” (as defined therein), (C) to an institutional “accredited investor” (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such transfer is in respect of a principal amount of Notes, at the time of transfer of less than \$250,000, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144 under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any Person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Insert Name of Accredited Investor]

By: _____

Name:

Title:

Dated: _____

FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

SUPPLEMENTAL INDENTURE (this “*Supplemental Indenture*”), dated as of _____, among _____ (the “*Guaranteeing Entity*”), Ritchie Bros. Holdings Ltd., a Canadian federal corporation (the “*Company*”), U.S. Bank National Association, as trustee under the Indenture referred to below, and TSX Trust Company, as co-trustee under the Indenture referred to below (together, the “*Trustee*”).

WITNESSETH

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the “*Indenture*”), dated as of December 21, 2021 providing for the issuance of 4.950% Senior Notes due 2029 (the “*Notes*”);

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Entity shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Entity shall unconditionally guarantee all of the Company’s Obligations under the Notes and the Indenture on the terms and conditions set forth therein (the “*Note Guarantee*”); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

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

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. AGREEMENT TO GUARANTEE. The Guaranteeing Entity hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in in the Indenture including but not limited to Article 10 thereof.
4. NO RECOURSE AGAINST OTHERS. No director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the Notes, this Indenture, the Note Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.
5. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.
6. **WAIVER OF TRIAL BY JURY. THE COMPANY, THE GUARANTEEING ENTITY AND THE TRUSTEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS SUPPLEMENTAL INDENTURE, THE INDENTURE, THE NOTES, THE NOTE GUARANTEES AND FOR ANY COUNTERCLAIM THEREIN.**

7. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

8. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

9. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Entity and the Company.

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

Dated: _____,

[GUARANTEEING ENTITY]

By: _____
Name:
Title:

Ritchie Bros. Holdings Ltd.

By: _____
Name:
Title:

U.S. Bank National Association, as Trustee

By: _____
Name:
Title:

TSX Trust Company, as Co-Trustee

By: _____
Name:
Title: